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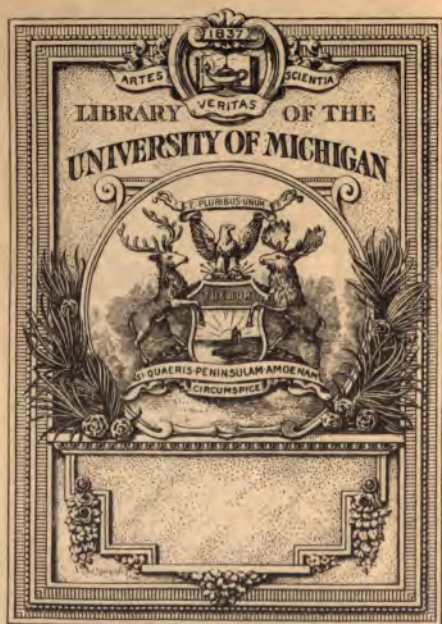
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THE
BALLOT ACT
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THE
BALLOT ACT, 1872,

WITH AN
INTRODUCTION.



FORMING A GUIDE TO THE PROCEDURE AT PARLIAMENTARY
AND MUNICIPAL ELECTIONS.

SECOND EDITION.

BY
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NOTE TO THE SECOND EDITION.

THIS edition has been carefully revised throughout, and experience has suggested some additions which it is hoped will be found useful.

In the Session of 1875 two statutes affecting election law were passed, namely, the Municipal Elections Act, 1875 (38 & 39 Vict. c. 40), and the Parliamentary Elections (Returning Officers) Act, 1875 (38 & 39 Vict. c. 84). The provisions of both these Acts are explained in the introductory chapters, and the Acts themselves are printed together with the Ballot Act, in Appendix I.

A new Appendix has also been added, containing a practical summary of the election for the borough of Westminster, held in February, 1874.

A Select Committee of the House of Commons sat during the Session of 1876, to inquire into the existing machinery for conducting elections. It may fairly be said that the result of their inquiry was to establish the fact of the successful working of the Ballot Act, and there is little probability of the country reverting in 1880 to the system of election procedure in force before that Act was passed.

G. A. R. FITZGERALD.

3, STONE BUILDINGS,
August, 1876.

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THE BALLOT ACT, 1872.

INTRODUCTION.

CHAPTER I.

PROCEDURE AT PARLIAMENTARY ELECTIONS.

THE object of this chapter is to trace succinctly the course of procedure at a parliamentary election, having regard more particularly to the alterations of the former law made by the Ballot Act, 1875. These alterations, as well as those introduced by subsequent Acts, it has been attempted to point out distinctly and explain, with the result it is hoped of presenting a full and clear view of the law as it now stands.

OBJECT OF
CHAPTER.

The summoning of Parliament is taken as the starting-point, and chronological order is followed as the most convenient and intelligible.

Parliament is summoned by the Sovereign by Royal Proclamation issued by and with the advice of the Privy Council. According to the modern practice the royal proclamation dissolving Parliament declares

SUMMON-
ING OF
PARLIA-
MENT.
Writs.

it to be the royal pleasure to call a new Parliament, and the Chancellors of Great Britain and Ireland are directed by an order in Council made at the Council at which the proclamation is agreed on to issue writs of summons to the Lords Spiritual and Temporal, and writs for the election of knights, citizens, and burghesses to serve in the said Parliament (*a*).

The writs for a general election as well as the writs of summons to the Peers of England and Ireland, and the proclamation requiring the Peers of Scotland to meet at Holyrood House and choose sixteen representative peers, are prepared and issued by the Petty Bag office under the Great Seal (*b*).

The Magna Charta of John (cited in "Dwarris on Statutes," 1st ed. p. 38) contains as its 14th article a promise to summon "*commune consilium regni*," and further, "*Faciemus summoneri, etc., ad certum diem; scilicet ad terminum quadraginta dierum ad minus et ad certum locum.*" This article was omitted in all subsequent charters, including that of 25 Edw. 1, which is now in the statute book, but probably was the origin of the period of forty days, which seems to have been recognised as the proper period between the issue and the return of the writ.

(*a*) These are the two kinds of writs now in use, but some confusion has arisen in the books from the use made of the term "writ of summons," which frequently includes the writs for election, and appears in some instances to have been applied to the warrant or order for the issuing of the writs out of Chancery. See 7 & 8 W. 3, c. 25; 10 W. 3, c. 7; Coke, 4 Inst. 4, 10; Com. Dig. V. pp. 245-248; Hallam, M. Ages, iii. p. 4, *sqq.*; Steph., Bl. ii. p. 346 (6th edition); May, Parl. Pract., p. 44 (7th edition); Rogers on Elections, p. 253, *sqq.* (11th edition).

(*b*) 12 & 13 Vict. c. 109, s. 14. The writs for election for Ireland are issued by the Clerk of the Crown and Hanaper in Ireland.

However, by 7 & 8 Wm. 3, c. 25, it was required that there should be forty days between the *teste* and the return of the writs of summons, and since the union with Scotland it had been the practice to extend this period to fifty days. And by 15 & 16 Vict. c. 23 the minimum period between the date of the proclamation appointing a time for the first meeting of Parliament and the time so appointed, has been reduced to thirty-five days.

A writ for the election of a member to fill a casual vacancy is issued by the clerk of the Crown in Chancery, on a warrant signed by the Speaker. The form of the writ varies according as it is issued for that purpose, or for the election of members at a general election. (*See the new form of writ in Schedule II. to the Ballot Act.*)

Delivery of writs is made by post, except in the cases of the sheriffs of London and sheriff of Middlesex, and where a sheriff or other person to whom writs are directed holds his office in London, Westminster, or Southwark, or within five miles thereof, in which case the messenger is to carry the writ to such office (53 Geo. 3, c. 89). The date of the receipt of the writ must be endorsed on it by the returning officer to whom it is directed in manner provided in Schedule II. to the Ballot Act.

Delivery
of Writs.

The returning officer is the person to whom the writs for election are addressed, and he is charged throughout with the conduct of the election.

RETURN-
ING OFF-
FICER.

In counties, and counties of cities and counties of

In coun-
ties.

PROCEDURE AT PARLIAMENTARY ELECTIONS.

towns, and in the town of Berwick-upon-Tweed, the returning officer is the sheriff (a).

n
boroughs.

In boroughs under the Municipal Corporations Act (5 & 6 Wm. 4, c. 76), other than the town of Berwick-upon-Tweed, and other than cities and towns which are counties of themselves, the returning officer is the mayor (s. 57); in such of the new boroughs created by the Reform Act of 1832 (2 Wm. 4, c. 45), as have since obtained a charter of incorporation, is the mayor or other chief municipal officer, if the charter gives power to elect such a person (s. 11); in any new borough created by the Reform Act of 1867 (30 & 31 Vict. c. 102), which is or includes a municipal borough, is the mayor of such municipal borough (s. 47) (b); in certain other boroughs (especially those mentioned in 2 Wm. 4, c. 45, Schedule C.), is by custom some local officer, such as the high bailiff or borough-reeve, or the warden of the Cinque Ports.

In boroughs other than the above mentioned, the sheriff of the county within which the borough is situate appoints a fit person, resident in the borough; to be returning officer (2 Wm. 4, c. 45, s. 11; 30 & 31 Vict. c. 102, s. 47) (c).

With a view to such cases, by the Registration Act of 1843 (6 Vict. c. 18, s. 101) and the other Acts

(a) The mode of issue and transmission of writ in the counties Palatine of Chester, Lancaster, and Durham, has been assimilated to that in other counties. 9 & 10 Vict. c. 44; 30 & 31 Vict. c. 102, s. 57; 31 & 32 Vict. c. 58, s. 21.

(b) 31 & 32 Vict. c. 58, s. 33, provides generally that whenever a parliamentary borough becomes a municipal borough, the mayor shall take the place of the then returning officer.

(c) The provisions of 9 & 10 Vict. c. 44, directing writs for boroughs in the county of Chester (other than the county and city of Chester) to be sent to the sheriff of the county must be considered as repealed by 16 & 17 Vict. c. 68, s. 1.

relating to registration, the term "returning officer" is declared to apply to every person to whom by virtue of his office, under any law, custom, or statute, the execution of any writ or precept doth or shall belong for the election of a member or members to serve in Parliament, by whatever name or title such person may be called (a).

In the Universities of Oxford, Cambridge, and London, the returning officer is the Vice-Chancellor (16 & 17 Vict. c. 68; 30 and 31 Vict. c. 102, s. 41) (b). In Universities.

The law with respect to *casual* vacancies in the office of returning officer is contained in numerous statutes, and its provisions are in some cases ambiguous and incomplete. Casual vacancies.

Where the sheriff dies before the expiration of his year of office, or, being an officer of militia, is on service with his militia, the under-sheriff is answerable for the execution of his office until another is appointed and sworn, or the militia is disembodied. (3 Geo. 1, c. 15, s. 8; 2 & 3 Vict. c. 59, s. 2.)

But other cases do not seem to be provided for; as, for example, the case of a sheriff dying or going out of office after the issue and before the delivery

(a) In Scotland the returning officer for a county and for a single city, burgh, or town, is the sheriff of the county; for a district of cities, burghs, or towns is some particular sheriff specified in Sched. L. to 2 & 3 W. 4, c. 65; and see 31 & 32 Vict. c. 48. In Ireland the returning officer in counties is the sheriff; in boroughs is the mayor. 3 & 4 Vict. c. 108, s. 84; 25 & 26 Vict. c. 92.

(b) The returning officer for the Universities of Edinburgh and St. Andrews is the vice chancellor of the University of Edinburgh; for the Universities of Glasgow and Aberdeen, is the vice chancellor of the University of Glasgow (31 & 32 Vict. c. 48, s. 37). The returning officer for the University of Dublin is the Provost of Trinity College (see 24 & 25 Vict. c. 53).

of the writ, or dying after the election and before the return (a).

With respect to municipal boroughs other than Berwick-on-Tweed, and other than counties of cities and counties of towns, 5 & 6 Wm. 4, c. 76, s. 57, declares that in case of the death, incapacity, or absence of the mayor, or in case there be no mayor, "the council of such borough *shall* forthwith elect one of the aldermen to be returning officer;" while 16 & 17 Vict. c. 79, s. 7, provides that the mayor of every city, borough, or town corporate *may*, during his illness or absence, appoint an alderman or councillor to act as his deputy; and s. 8, that such deputy may, during such illness or absence, "lawfully do and perform all acts which the mayor, in his official capacity, might himself do or perform." Under the above sections it may be doubted whether, in the event of the illness or absence of the mayor of a municipal borough, the choice of a returning officer lies with the council or the mayor.

Further, it is enacted by 17 & 18 Vict. c. 57 (b), that whenever in a borough, city, or town there is no person duly qualified to act as returning officer (but not otherwise), the sheriff of the county in which the borough, city, or town is situate shall be charged with the execution of the writ, and perform all the duties of the returning officer. But this Act also is, perhaps, defective in not providing for the death of the returning officer after the receipt of the writ, but before he can complete the return.

(a) Rogers on Elections, p. 341 (12th edition).

(b) So in Ireland. 25 & 26 Vict. c. 92, s. 3.

How far an election is imperilled by want of title in the returning officer may be a question. An opinion is expressed in the work of Mr. Rogers (p. 296 n.) (a) that an election fairly held would not be vitiated on such a ground; but, assuming that opinion to be correct, it may be doubted whether it will apply under the Ballot Act, which imposes judicial or quasi-judicial functions on the returning officer.

As to
effect of
want of
title—
quære.

It is clear that in counties the sheriff can conduct the election throughout by means of his under-sheriff (a). By 2 Wm. 4, c. 45, s. 61, power is given to the sheriffs of Yorkshire, Lincolnshire, and the counties divided by that Act, to preside at the elections for the several ridings, parts and divisions of their respective counties, by themselves or their lawful deputies; and this provision is extended by 30 & 31 Vict. c. 102, s. 22, to the counties divided by that Act. (See also 2 & 3 Wm. 4, c. 45, s. 66.) (b). It seems doubtful, however, whether the term "lawful deputies," as used in those sections, means anything but under-sheriffs, as it is certain that the term does not comprise the deputy appointed under 3 & 4 Wm. 4, c. 42, s. 20, who is only appointed for the purpose of executing legal writs; and it does not appear to include the deputies appointed under s. 65 of 2 Wm. 4, c. 45.

Deputies.

The Ballot Act enlarges the power of the returning officer in counties with respect to deputies by

(a) See in particular 7 & 8 W. 3, c. 25; 10 W. 3, c. 7; 3 G. 1, c. 15, s. 11; and 19 G. 2, c. 28.

(b) As to substitute acting for sheriff in Scotland, see 2 & 3 W. 4, c. 65, s. 42; 5 & 6 Will. 4, c. 78, s. 11.

enacting (s. 8), that where the sheriff is returning officer for more than one county as defined for the purposes of Parliamentary elections, he may, without prejudice to any other power, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to an election in any such county, and may, by himself or any such deputy, exercise any powers and do any things which the returning officer is authorised or required to exercise or do in relation to such election. This will enable the sheriff of any county containing two or more electoral divisions to delegate to any person so appointed by him all his powers and functions for the purposes of an election for any such division in the same manner as if such person was an under-sheriff. There is no provision enabling the returning officer of a borough to appoint a deputy, (a) but it is presumed that in a county of a city or of a town the sheriff could conduct the election by means of his under-sheriff.

May not
act as
agent.

The returning officer, as well as his deputy, and the partner or clerk of either of them, is prohibited by 30 & 31 Vict. c. 102, s. 50. from acting as agent for a candidate, and by s. 11 of the Ballot Act that section is extended to any returning officer or officer appointed by him in pursuance of that Act, and to his partner or clerk (b).

Duties.

The duties of the returning officer, some of which are merely ministerial, while others are judicial or

(a) The special regulations of s. 74 of 2 W. 4, c. 45, as to the deputies of returning officers for Monmouth and contributory boroughs in Wales, are repealed by the Ballot Act.

(b) So in Ireland, 31 & 32 Vict. c. 49, s. 13, and s. 17 of the Ballot Act. As to vote of returning officer, see *post*, p. 61.

quasi-judicial (*a*), will sufficiently appear from the following pages; and reference may also be made to the Abstract of the Ballot Act issued by the Home Office for the information of returning officers, which will be found in Appendix II. It may be said generally that his duties will be more minute and laborious than heretofore, especially in large constituencies, though increased experience of the working of the Ballot Act will greatly facilitate their performance.

An enumeration of the various persons incapacitated from sitting in the House of Commons does not fall within the scope of this introduction (*b*); but it is necessary to consider the meaning of the term "candidate" with reference to the payment of election expenses.

CANDI-
DATE.
Meaning
of term.

By 21 & 22 Vict. c. 87, s. 3 (repealing so much of s. 38 of the Corrupt Practices Prevention Act, 1854 (*c*), as relates to the definition of "candidate"), the words "candidate at an election" in the construction of the Corrupt Practices Prevention Act, 1854, are made to include all persons elected to serve in Parliament at such election, and all persons nominated as candidates at such election, or who have declared themselves candidates on or after the day of the issue of the writ, or after the dissolution or vacancy in consequence of which the writ was issued.

(*a*) See Heywood on County Elections, 2nd edition, p. 472, *sqq.*; *Ashby v. White*, Smith, L. C., 7th edition, I., p. 251; and s. 2 of the Ballot Act, which provides that the decision of the Returning Officer as to the validity of any ballot paper is final, subject only to reversal on a petition questioning the election or return.

(*b*) See, on this subject, Com. Dig. V. p. 249; Rogers, c. 5; May's Parl. Pract. p. 31, 591; O'Donovan Rossa's case, Hansard, vol. 199, p. 122.

(*c*) 17 & 18 Vict. c. 102.

By the Parliamentary Elections Act, 1868 (31 & 32 Vict. c. 125), "candidate" means any person elected to serve in Parliament at an election, and any person who has been nominated as or declared himself a candidate at an election.

There appears to be no definition of "candidate" for general purposes; but it was held in *Muntz v. Sturge* (8 M. & W. 302), that the word, as used in 2 Wm. 4, c. 45, s. 71, in relation to the payment of the expenses of poll-booths, meant only a person who went to the poll. On the other hand, under the Treating Act (7 & 8 Wm. 3, c. 4), the expression "person to be elected" was held to extend to an unsuccessful candidate; *Ward v. Nanney* (3 C. & P. 399) (a). In *Morris v. Burdett*, 2 M. & S. 212, a candidate was defined by Lord Ellenborough as "a person offering himself to the suffrages of the electors;" by Dampier, J., as "one who voluntarily proposes himself or adopts the proposal of others" (b).

The law is not expressly altered by the Ballot Act, but its effect is to make every person duly nominated (and no other person) a candidate for all purposes relating to the expenses of the election (c), and to compel him to go to the poll, unless during the time appointed for the election (d) he withdraws himself, or if out of the United Kingdom is withdrawn by his proposer (s. 1), or unless security (if required) is not

(a) Rogers on Elections, p. 408, note (p).

(b) See also *Davies v. Lord Kensington*, L. R. 9 C. P. 720.

(c) As to liability of person proposing a candidate without his consent, see *post*, p. 66.

(d) The time appointed for the election is defined by Rule 4, to be such two hours between 10 a.m. and 3 p.m., as the Returning Officer may appoint. The rules referred to in this introduction are the rules in the first Schedule to the Ballot Act.

given or tendered on his behalf as provided by the Parliamentary Elections (Returning Officers) Act, 1875 (38 & 39 Vict. c. 84).

The old law relating to nomination is almost entirely superseded by the provisions of the Ballot Act. The county court formerly held by the returning officer in counties, and the use of hustings, are abolished, and in place of a proclamation or notice of election publicly made or given by the returning officer, and of an open nomination (election) of candidates, advertisements by placards or otherwise and a private proceeding in "a convenient room," are substituted. The occasion of such disturbances as frequently marked the old hustings nomination, is thus removed.

NOMINATION.
Old law altered.

It will be the duty of the returning officer, in the case of a county election, within *two* days after the receipt of the writ, and, in the case of a borough election, on *the day* of its receipt, or on the *following* day, to give public notice (*a*), in the form prescribed in Schedule II., of the time and place of election (*b*), and of the other particulars mentioned in Rule 1, and to this notice must be added the notification with respect to the transmission of particulars of claims against returning officers which is contained in the second schedule to the Parliamentary Elections (Returning Officers) Act, 1875. In the case of a county

Notice.

(*a*) By advertisements, placards, handbills, or otherwise. See Rule 46. This applies wherever the expression "public notice" is used.

(*b*) Where there is no poll the nomination is in fact the election, and the latter term is used accordingly in the Ballot Act.

election, he will also forward notices to the principal post-office of every polling-place, to be published as post-office notices are usually published (Rule 1). These post-office notices, together with a notice in the county papers, will suffice for a county election ; in a borough, placards or handbills, with a notice in the local paper, will probably be employed. Also, on or before the day of election the returning officer must publish the names and addresses of the agents required to be appointed for the payment of election expenses (26 & 27 Vict. c. 29, s. 2).

Time of
election.

The time of election is fixed by the returning officer in accordance with Rules 2 and 4. In a county or district borough (*a*) the first possible day for election is the *fourth* day after the day on which he gives the notice ; the last possible day is the *ninth* day after the day on which he received the writ. In an ordinary borough the first possible day is the *third* day after the day on which he gives the notice ; the last possible day is the *fourth* day after the day on which he received the writ. (*See* the "Time-table" annexed to the Abstract in Appendix II.)

Place of
election.

The place of election must be a convenient room situate in the town in which the election would have been held before the passing of the Ballot Act, or if the election would not have been held in a town, then situate in some town in the county to be fixed by the returning officer (Rule 3).

This latter provision meets any special case, such as that of Kent, where elections have heretofore been held on an open down.

(*a*) District borough means Monmouth and the Welsh boroughs specified in Schedule E of 2 W. 4, c. 45.

No bribery oath or other oath is now required to be taken by the returning officer, as formerly under 2 Geo. 2, c. 24, s. 3, which is repealed by the Ballot Act (see Rule 54) (a).

The Ballot Act puts an end to the possibility of a person being elected who has not previously been nominated, and a candidate must now be nominated in writing, subscribed by two registered electors as proposer and seconder, and by eight other registered electors as assenting to the nomination (s. 1). This provision ensures as far as possible the *bona fides* of the candidature. During certain hours of each day in the interval between the notice of and the day of election (which will be, in the case of an election for a county or district borough, not less than *three* clear days, and in the case of an election for a borough other than a district borough, not less than *two* clear days), and also during the time appointed for the election, any elector may apply to the returning officer for a form of nomination paper, which that officer is bound to supply; but its use is not obligatory, though the paper employed must be in the form prescribed by the Act (Rule 7). Of course any number of candidates may be nominated; but it must be remembered that the name of one candidate only may be inserted in a nomination paper, and that an elector cannot subscribe more papers than there are vacancies to be filled (Rule 5). The proper mode of filling up a paper will be readily gathered from a reference to Rule 6, and to the form itself in Schedule II. Care should especially be taken that the names of the candidate are accurately stated, that the de-

Candidate,
how nomi-
nated.

(a) As to his declaration of secrecy, see p. 41.

scription is sufficient, and that the requisite number of registered electors subscribe.

With-
drawal.

Once duly nominated, a candidate can only withdraw from his candidature by giving a written notice, signed by himself, to the returning officer during the time appointed for the election (s. 1) (*a*). In the case of any such withdrawal, the returning officer must give public notice of the name of the withdrawn candidate, and of the names of the subscribers of his nomination paper, as well as of the candidates who stood nominated or were elected (Rule 10). It does not appear to be contemplated that the notice as to a withdrawn candidate should be given before the declaration of the result of the election where there is no poll, or before the adjournment of the election in the case of a poll!

Objec-
tions.

On the day of the election the returning officer will attend at the place of election during the time appointed by him for the election, for the purpose of receiving nomination papers (which must be delivered to him by the candidates themselves, their proposers or seconders, during that time) (s. 1), and during one hour afterwards for the purpose of receiving objections to nomination papers (Rules 4 and 6). Such objections, if on the ground of insufficient description or misdescription of a candidate, must be made immediately on the delivery of the nomination paper

(*a*) Where a candidate is nominated in his absence from the United Kingdom, he may be withdrawn by written notice signed by his proposer, who must hand to the returning officer as well a written declaration of such absence (*ib.*)

If the security required from any candidate under the Parl. El. Act, 1875, is not given or tendered, the candidate is deemed to be withdrawn within the provisions of the Ballot Act. See *post*, p. 69.

(Rule 6) ; if on any other ground, before the expiration of the said hour (Rule 12). The decision of the returning officer if disallowing an objection is final, otherwise is subject to reversal on petition questioning the election or return (Rule 13). Trivial objections should not be taken or allowed by the returning officer ; and his own objections should be taken at the earliest possible moment. It is presumed that he would allow a mere insufficiency of or error in description to be amended.

The Select Committee of the House of Commons, appointed in the session of 1876, to inquire into the working of the existing machinery of elections, recommended that in any general amendment of the Ballot Act an opportunity should be afforded for curing any defects in relation to the nomination of candidates which might be pointed out by objection taken at a period of the nomination when it is under the present system too late to cure such defects.

The public are made acquainted with the names of the candidates under the provisions of Rule 11, which enacts that the returning officer shall, on the nomination paper being delivered to him, forthwith cause the names of the candidate, his proposer and seconder, to be conspicuously placarded outside the building in which the room appointed for the election is situate. It is to be remarked that "public notice" as defined by Rule 46 is not required by this rule ; and a legibly written notice is all that will be necessary.

Every person whose nomination paper is delivered during the time appointed for the election, and to whose paper no objection is made, will be

deemed nominated in manner provided by the Act, and no person not so nominated will be entitled to have his name inserted in a ballot paper (Rule 12). It is clear, however, that where the objection is disallowed, the person to whose nomination paper it is taken must be deemed duly nominated for the purpose of entitling him to have his name so inserted.

The change from the publicity of the old hustings nomination is very material, inasmuch as the only persons other than the returning officer and his assistants (if any) entitled to attend the proceedings during the time appointed for the election, are the candidates, their respective proposers and seconders, and one other person selected by each candidate. (Rule 8.)

Show of
hands
abolished.

It will be observed that the view or show of hands which formerly determined an election, unless a poll was demanded (*a*), is abolished.

Adjourn-
ment of
nomina-
tion.

The nomination in a borough may be adjourned from time to time in cases of riot (5 & 6 Wm. 4, c. 36, s. 8), but there is no statutory provision for its adjournment under any other circumstances.

Proceed-
ings in
case of
uncon-
tested
election.

If the election be uncontested—that is to say, if at the expiration of one hour after the time appointed for the election no more candidates stand nominated (*i. e.*, have been duly nominated and not withdrawn) than there are vacancies to be filled up—the returning officer is bound forthwith, as under the old law, to declare such candidates to be elected, and to return their names to the Clerk of the Crown in Chancery (s. 1) (*b*). By Rule 45 he is also bound to give public

(*a*) 7 & 8 W. 3, c. 25, s. 3, repealed by the Ballot Act.

(*b*) As to mode of return, see *post*, p. 65.

notice as soon as possible of the names of the candidates so elected. A candidate cannot withdraw in the hour after the time appointed for the election, during which the returning officer is bound under Rule 4 to attend, though objections other than for misdescription or insufficient description may be taken during that period (see Rule 12).

If the election be contested—that is to say, if the number of candidates duly nominated and not withdrawn exceeds the number of vacancies—the returning officer is to adjourn the election, for the purpose of taking a poll, and as soon as practicable to give public notice of the day on which the poll will be taken, of the candidates as described in their nomination papers, and of the other particulars mentioned in Rules 9 and 10 (s. 1, Rules 9 and 10).

The previously existing enactments respecting the day of the poll are repealed by the Ballot Act; and by Rule 14 the day appointed by the returning officer must now be, in the case of an election for a county or district borough, not less than *two* nor more than *six* clear days; and in the case of an election for a borough, other than a district borough, not more than *three* clear days after the day fixed for the election (see Time-table in Appendix II.). In the case of a county election, the returning officer must also deliver a notice of the names of the candidates, and of the day fixed for the poll, to the post-master of the principal post-office in the town in which the election is held, in order that the information may be telegraphed, free of charge, to the several postal telegraph offices in the county, and published as Post Office notices are usually published (Rule 9).

Adjourn-
ment of
election if
contested.

Notices.

Day of
poll.

Moreover, on the election being adjourned, the returning officer must give public notice of the situation of the polling stations, of the description of voters entitled to vote at each station, and of the mode in which electors are to vote (Rule 19). In carrying out the last direction, the form of directions for guidance of voters in Sched. II. should be used. It would seem that this notice may be given either together with or independently of the public notice required by Rule 9 of the day of the poll, &c.

As a rule the returning officer ought no doubt to be completely prepared for the event of a contested election, so as to be able to give notice of all the required particulars at the earliest moment practicable, and it would usually be convenient to insert them in one advertisement or placard.

If a candidate dies in the interval between the adjournment of the election and the taking of the poll, notice of the poll is to be countermanded and the proceedings commenced afresh, as if the returning officer had received the writ on the day on which proof was given to him of such death. A candidate who stands nominated at the time of the countermand of the poll need not be re-nominated (s. 1.). No particular mode of notifying the countermand is prescribed, but care will of course be taken that sufficient notice is given.

A candidate may be elected in his absence (see Form of Writ in Sched. II.).

POLLING
DIS-
TRICTS.

In order to facilitate the taking a poll, various statutory provisions have from time to time been made in relation to the division of electoral areas into *polling districts*.

The enactments prior to 1867 (a) are repealed by the Ballot Act, and the general result of its provisions (s. 5) is to carry further the principle of providing polling places accessible to each voter, by rendering compulsory the division of counties, and pressing upon the consideration of the local authorities of boroughs the desirability of dividing their respective boroughs, without, however, rendering such division compulsory.

Provisions
of Ballot
Act as to
polling
districts.

With respect to counties, section 5 enacts (commanding the exercise for the purpose of the powers conferred by s. 34 of 30 & 31 Vict. c. 102) that "the local authority (as hereinafter defined) of every county *shall* by order, as soon as may be practicable after the passing of this Act, divide such county into polling districts, and assign a polling-place to each district, in such manner that, so far as is reasonably practicable, every elector resident in the county shall have a polling-place within a distance not exceeding *four* miles from his residence, so, nevertheless, that a polling district need not in any case be constituted containing less than one hundred registered electors." And with respect to boroughs, that "the local authority (as hereinafter defined) of every borough shall take into consideration the division of such borough into polling districts, and, *if they think it desirable*, by order, divide such borough into polling districts in such manner as they may think most convenient for taking the votes of the electors at a poll."

A copy of any order made by a local authority in pursuance of this section was to be sent to the Home

(a) 2 W. 4, c. 45, s. 63; 6 & 7 W. 4, c. 102; 18 & 19 Vict. c. 68, ss. 7 & 8.

Secretary on or before the 1st of May, 1873, in order to be laid before Parliament, accompanied by a report stating how far the provisions of the Act with respect to polling districts had been complied with in the county or borough of such local authority. A copy of any order made after the 1st of May, 1873, must in like manner be sent to the Home Secretary to be laid before Parliament, but no time is specified within which this is to be done.

The local authorities of counties and boroughs under this section (amending 30 & 31 Vict. c. 102, s. 34, and 31 & 32 Vict. c. 58, s. 18) are as follows :—

<i>Area.</i>	<i>Local Authority.</i>
County.	Justices having jurisdiction therein, or in larger part thereof, in general or quarter sessions assembled.
Isle of Ely.	Justices for Isle of Ely assembled as aforesaid.
Municipal borough, and borough any part of which forms a municipal borough.	Town Council.
Parliamentary borough constituted by combination of two or more municipal boroughs, or by combination of municipal borough and other places, whether municipal boroughs or not.	Town Council of borough in which nomination takes place.
Borough where town council is not local authority.	Justices of petty sessional division in which borough is situate ; or if borough is situate in or comprises more than one petty sessional division, then the justices in general or quarter sessions having jurisdiction over such borough or greater part thereof in area.

An election cannot be questioned by reason of any non-compliance with this section, or any informality relative to polling districts or polling-places. It may happen that a parish is by an order under this section divided between two or more polling districts, in which case the existing lists and register of voters necessarily become inapplicable. Accordingly, it is enacted that any order made by a local authority in relation to polling districts or polling-places shall apply only to lists of voters made subsequently to its date, and to registers of voters formed out of such lists, and to elections held after the time at which a register of voters so formed has come into force (s. 5, ad fin. (a)).

In the case of counties a large discretion is no doubt left to the justices by the words "so far as is reasonably practicable," but the principle of the section is clear enough.

In counties, under the Registration Act (6 Vict. c. 18, ss. 3 et seq.) (b), the registration of voters is parochial, the names being arranged in each parish or township in strict alphabetical order according to the surnames, with every polling district in alphabetical order, and with every parish or township within such polling district likewise in alphabetical order (s. 47).

The voters are numbered consecutively throughout

CONFORM-
ITY OF
REGIS-
TRATION
LISTS TO
POLLING
DIS-
TRICTS.
In coun-
ties.

(a) See proviso at end of section, which obviates the unnecessary postponement of the operation of an order made between the 1st of July and the 1st of November in any year, and not creating any new division of a parish between two or more polling districts.

(b) The Scotch Registration Acts are 19 & 20 Vict. c. 58 (burghs); 24 & 25 Vict. c. 83 (counties); amended by 31 & 32 Vict. c. 48. The Irish Acts are 13 & 14 Vict. c. 69; 27 & 28 Vict. c. 22; amended by 31 & 32 Vict. c. 112.

the register of the whole county ; but in cases where voters have obtained leave, under s. 36, from the revising barrister to vote out of their district (*infra*, p. 25), s. 47 requires an asterisk instead of a number to be prefixed to their names in the list of the parish or township in which their names originally appeared.

In
boroughs.

In boroughs, under the same Act, the list of free-men is made out by the town clerk, while the list of the other voters is parochial. It is clear then that this Act did not contemplate the division of parishes between different polling districts.

The thirty-fourth section of the Reform Act of 1867 (30 & 31 Vict. c. 102), however, clearly provides for the division of parishes between polling districts both in counties and boroughs, and in boroughs directs the list of voters to be made out in such manner as to divide the names in conformity with each polling district.

Further, the 22nd section of the Registration Act of 1868 (31 & 32 Vict. c. 58), enacts that where any parish in a county, as well as in a city or borough, forms part of more than one polling district, the part of such parish situate in each polling district shall be deemed to be a separate parish for the purposes of the revision of voters and the lists and register of voters, and may be designated by some distinguishing addition in the list of voters for such part of a parish. Such part in fact receives a nickname for registration purposes, and a separate list must be made for it by the overseers.

PREPARA-
TIONS FOR
TAKING
POLL.

The consideration of the preparations for the poll to be made by the returning officer involves the

fundamental change introduced by the Ballot Act—the taking the votes of the electors by ballot. The mode of ballot adopted by the legislature is that popularly known as the “paper ballot,” and, as will be seen, its nature entails more onerous duties on the returning officer than heretofore. His preparations may perhaps be conveniently considered under the heads *material* and *personal*.

Under the first head it will be the business of the returning officer in the first place to provide at every polling-place a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling-place (s. 8, rule 15) (a).

Material
prepara-
tions—
polling
stations.

In order to avoid confusion, it will be well here, once for all, to distinguish the meanings of “polling district,” “polling-place,” “polling station,” and “compartment.” The term “polling district,” as already explained, means one of the divisions into which every county, and most large boroughs, are now mapped out, so as to present the electors in manageable bodies for polling purposes. The term “polling-place” means, in the case of a county, some town or village at which the electors of a polling district are to poll; in the case of a borough, the particular spot in such borough or (if divided into districts) in each district which the returning officer may fix as the place for polling (Rule 57). A “polling station” is, in effect, the area under the control of a presiding officer, and there may be several at one polling-place; it may be either a separate room or a separate booth, or one or

(a) In Monmouth and the Welsh district boroughs (see Rule 57) there must be at least one polling station at each contributory place of such borough.

more polling stations may be constructed in the same room or booth (Rule 17). The returning officer will, of course, exercise his discretion according to local circumstances. A "compartment" is a space in a polling station so partitioned off as effectually to screen the elector, while marking his vote, from observation (Rule 16).

The expense of constructing booths is, in all cases where practicable, to be avoided. Section 37 of 30 & 31 Vict. c. 102, directed a room to be used instead of a booth wherever practicable, and permitted any room, the expense of maintaining which is payable out of a local rate, to be taken with the consent of the authority having control over the same. This principle is extended by permitting any such room, and also any room in a school receiving a Parliamentary grant, to be taken *compulsorily*, and used free of charge, for the purpose of a polling station.

All damage done to any such room as aforesaid, and all expenses incurred by the authority having control over the same by reason of its being used for such purpose, must be made good and defrayed by the returning officer (s. 6). This provision will only cover actual damage done, *e. g.*, to fittings or windows, and actual expense to which the authority is put by reason of the room being so used (*a*).

In every polling station compartments must be constructed so as to enable the voter to mark his vote screened from observation ; and at least one compartment must be provided for every 150 electors

(a) A minute has been framed by the Committee of Council for Education, which provides that a school shall not suffer with respect to any Government grant through being closed under this section.

entitled to vote at the station (Rule 16). The previously existing enactments on this subject are repealed (*a*), and there is no limit to the number of compartments, and consequently no limit to the number of electors, for a station. Both outside every station and in every compartment of every station the form of directions to voters given in Schedule II. must be placarded. This is an important provision, and should be carefully attended to.

Section 64 of 2 Wm. 4, c. 45 provides that at county elections no persons shall be admitted to vote in respect of any property situate in any parish, township, or place, except at the booth (*b*) allotted for such parish, &c.; and if no booth be allotted for the same, then at any of the booths appointed for the district in which the property is included; and in case the parish, &c., in which the property is situate is not included in any district, then at the principal place of election.

Allotment
of polling
stations to
electors.

But under s. 36 of 6 Vict. c. 18, any county voter residing out of the polling district wherein his qualification is situate, may obtain leave from the revising barrister to vote at the polling place of the district in which he resides.

In boroughs where there have been different booths erected (except in the borough of Monmouth), it is enacted by s. 68 of 2 Wm. 4, c. 45, that no person claiming to vote in respect of property shall be

(*a*) 2 W. 4, c. 45, s. 68; 5 & 6 W. 4, c. 36, ss. 3, 4; 6 & 7 W. 4, c. 102, s. 3; 31 & 32 Vict. c. 58, s. 24; and so in Ireland, 13 & 14 Vict. c. 68, ss. 3, 13.

(*b*) Booths will be comparatively unknown under the Ballot Act, and in construing the prior enactments the term polling station must be understood.

admitted to vote, except in the booth allotted for the parish, district, or part where such property is situate ; or in case the voter does not claim to vote in respect of property, then in the booth allotted to the parish, &c., where his place of abode as described in the register may be ; but in case no booth happens to be provided for any particular parish, &c., the votes of persons voting in respect of property situate in, or resident in such parish, &c., may be taken at any of the booths (a).

The votes of freemen residing out of the limits of a borough may be taken at any of the booths (b).

The Ballot Act carries the principle of allotment somewhat further, by declaring (Rule 15) that the returning officer shall distribute the polling stations at a polling-place among the electors entitled to vote at such polling-place as he thinks most convenient. For instance, they might be distributed according to the alphabetical order of the names of the electors. By Rule 18, an elector is prohibited from voting at any station other than the one allotted to him.

Notice of
allotment
of sta-
tions.

In counties, by 2 Wm. 4, c. 45, s. 64, the sheriff is required to cause to be affixed on the most conspicuous part of each booth the names of the several parishes, townships, and places for which such booth is allotted.

In cities and boroughs (except Monmouth), by s. 68, in addition to affixing on the most conspicuous parts of each booth the names of the several parishes, districts, and parts for which such booth is allotted,

(a) For similar provisions as to counties in Scotland, see 2 & 3 W. 4, c. 65, s. 27 ; in Ireland, 13 & 14 Vict. c. 68.

(b) 2 W. 4, c. 45, s. 68. As to liverymen in the city of London, see 5 & 6 W. 4, c. 36, s. 7 ; 6 & 7 Vict. c. 18, s. 92.

the returning officer is required to give public notice of the situation, division, and allotment of the different booths two days before the commencement of the poll.

Under Rule 19 of the Ballot Act the returning officer both in counties and boroughs must give public notice of the situation and allotment of the polling stations.

The returning officer must moreover provide for every polling station ballot boxes, ballot papers, stamping instruments, copies of the register of voters, and materials for voters to mark the ballot papers (s. 8, Rule 20). A copy of such part only of the register is required at a station as contains the names of the voters allotted to vote thereat.

Ballot
boxes, &c.

A ballot box must be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom without the box being unlocked (Rule 23) ; it should be large and strong, and where the voters are numerous it may be necessary to provide more than one for a station.

Where a parliamentary borough and a municipal borough occupy the whole or part of the same area, section six of the Parliamentary Elections (Returning Officers) Act, 1875 (38 & 39 Vict. c. 84), makes it the duty of the returning officer as far as practicable to make use of ballot boxes, fittings, and compartments provided for municipal or school board elections ; and the Court, on taxation of his accounts, is to have regard to the provisions of this section.

The official mark is required to be stamped on both sides of the ballot paper (s. 2) : the instrument should of course be such as to effect this by a single operation, and the stamp should be a perforating or embossing one.

Stamping
machine.

The Select Committee of 1876 took evidence as to the best form of stamping machine, and arrived at the conclusion that the shifting perforating machine is liable to fraudulent imitation ; while the percussion embossing machine tires the hands of those who use it to such an extent as to cause the mark made on the papers to be in some instances too faint to be of service (Rep. p. iv.). The evidence of Mr. Gordon, the representative of Messrs. Shaw, of Fetter Lane, goes to show that the fixed pin perforator, or the mixed machine, partly perforating and partly embossing, is the best ; but these machines are more costly than the ordinary embossing machine (Q. 1032). Mr. Lowesheim, a manufacturer of stamping machines, recommends the embossing machine, which can be made with a lever to avoid fatigue to the operator (Q. 1074, 1077, 1084).

The papers should be stamped singly. Whatever machine be used, the returning officer must take precautions to prevent the official mark being divulged before the commencement of the poll, and seven years at least must elapse before the same mark can be used again at an election for the same county or borough (Rule 20) ; otherwise fraud would be invited.

Ballot
paper.

The marking materials will be pencils, attached to the desk at which the voter is to mark his vote. (See form of directions to voter in Sched. II.)

The ballot paper, which constitutes the ballot of each voter, requires a more detailed description. It must be printed, and in the form set forth in the second Schedule, and contain a list of the candidates, described as in their respective nomination papers, and arranged alphabetically in the order of their sur-

names (see directions for printing ballot paper in Sched. II.), and must be capable of being folded up (Rule 22). It must have a counterfoil like an ordinary cheque, and must be numbered on the back with a number corresponding to that on the face of the counterfoil (s. 2). As the object of the numbering is to make it possible to ascertain how votes have been given in the event of a scrutiny, it would appear that all the ballot papers in any one election, at whatever station they are used, ought to be numbered in a continuous series. Ballot papers of a different colour from the regular papers, but similarly printed, must be provided for "tendered votes" (Rule 27). In practice it will be found necessary to bind up the ballot papers and counterfoils in the form of an ordinary cheque-book.

There seems to be no objection to the adoption of a black ballot paper, the square intended for the cross remaining white ; and, at all events, the left hand margin of the ballot paper should be reduced as much as possible, in order to assist the more ignorant voters to mark their votes on the right hand side, as directed by the Act. The decision in *Woodward v. Sarsons* (10 C. P. 733 ; see *infra*, p. 59) has, however, rendered this point of less importance.

The law relating to the deputies (a) of returning officers has already been stated. A deputy returning officer appointed in pursuance of s. 8 of the Ballot Act, and also any under-sheriff, has under that section

Personal
prepara-
tions.

(a) This term will henceforth only be applicable to under-sheriffs and deputies appointed under s. 8. There was a tendency to confusion under the old law between deputies (properly so called) and presiding officers.

Officers
generally.

all the powers of a returning officer in relation to the election ; and, in so far as he acts as returning officer, is to be deemed to be included in the term returning officer in the provisions of the Ballot Act relating to Parliamentary elections (s. 8). With regard to other officers, there is a general direction in s. 8 to the returning officer to appoint and pay such officers as may be necessary for effectually conducting the election ; and Rule 21 expressly enacts that he " shall appoint a presiding officer to preside at each station." He must also, as under the old law (6 Vict. c. 18, s. 90), provide " a sufficient attendance of constables " at each station ; and may appoint and pay clerks and, in addition to any clerks, " competent persons " to assist him in counting the votes (Rule 48).

Presiding
officer.

By s. 10 of the Ballot Act, a presiding officer has the powers of a returning officer (*a*) under the old law ; and any presiding officer (*b*), and any clerk appointed by the returning officer, may ask the questions and administer the oath authorised to be asked of and administered to voters (*c*). If he thinks fit, the returning officer may himself preside at a polling-station (Rule 47) ; but practically he could only do so where the electors are few, and there is only one polling-station. In addition to the duties of the presiding officer in relation to the actual taking of the poll, it is his business to keep order at his station (for which purpose he is

(*a*) There can hardly be any doubt that the Act contemplates the appointment of one presiding officer, and one only, for each station. As a matter of fact, difficulties have arisen where more than one has been appointed. (See the evidence of Sir J. Heron before the Select Committee of 1876.)

(*b*) *i.e.*, a deputy appointed to preside at a polling place. See 2 W. 4, c. 44, ss. 70, 73.

(*c*) *Infra*, p. 38.

empowered by s. 9 to order the immediate removal of persons misconducting themselves, or failing to obey his lawful orders), to regulate the number of electors to be admitted at a time, and see that no persons other than the clerks, agents, and constables enter the station (Rule 21). He must also use his best exertions to maintain the secrecy of the voting (s. 4). He may delegate any of his powers or functions to his clerks, except that of ordering the arrest, exclusion, or ejection from the polling station of any person, and for such delegation no writing is required (Rule 50).

The position and liabilities of presiding officers were considered in the case of *Pickering v. James* (L. R. 8 C. P. 489). The plaintiff, an unsuccessful candidate at a municipal election, sought to recover damages from a presiding officer for breaches of duty, whereby (as he alleged) he lost his election. The following points were determined:—I. It is *primâ facie* the duty of the presiding officer (1) to deliver to the electors ballot papers bearing the official mark; (2) to be present at his station, so that electors can show the official mark to him. II. But though the presiding officer *primâ facie* undertakes all the duties imposed by the statute in relation to the conduct of the polling at his station, he is not responsible for the execution of such of them as he lawfully delegates to his clerks, since they are not his servants. III. The above duties are purely ministerial; consequently an action for breach of them lies by a party aggrieved, without any allegation of malice or negligence.

Case of
Pickering
v. James.

It was further held by Bovill, C. J., and Grove, J., that the statute does not impose on the presiding

officer the duty of ascertaining whether the ballot paper bears the official mark after the elector has marked it, and before he places it in the box. On the other hand, Keating and Brett, JJ., were of opinion that the statute does impose such duty.

This latter view seems correct. The elector is told by the Act to show the mark on his paper to the presiding officer, and if he fraudulently (he could hardly do it negligently) put an unauthorised paper in the box, he is under s. 3 liable to six months' imprisonment. The obvious inference, then, is, that it is the duty of the presiding officer, in the interest of the elector himself as well as of the public, to see that the elector complies with the law. The supposed practical difficulties started by the Chief Justice are disposed of in the judgment of Keating, J. Hard cases for presiding officers may possibly occur, but it is to be remembered that they need not undertake the office if they consider the risk out of proportion to the pay.

Considering the importance of retaining solicitors or other properly qualified persons as presiding officers, it is probable that the limit of their remuneration to 3*l.* 3*s.* by the Parliamentary Elections (Returning Officers) Act, 1875, may prove too low.

Check-clerks and commissioners for oaths abolished.

The inspectors, ordinarily called check-clerks, who might formerly be nominated by a candidate and appointed in counties by the sheriff or under-sheriff (*a*), as well as the commissioners who might be appointed by the returning officer in a county or borough, on

(*a*) 7 & 8 W. 3, c. 25, s. 3; 18 G. 2, c. 18, s. 9; 19 G. 2, c. 28, s. 6.

the written request of a candidate for administering oaths (*a*), are abolished.

It is to be observed that the enactment (2 Wm. 4, c. 45, s. 71) which fixed the payment of deputy returning officers at two guineas a day, and of poll-clerks at one guinea a day, has been repealed.

Payment
of deputy
returning
officers.

No person is eligible for appointment by a returning officer for the purposes of an election who has been employed by any other person in or about the election (Rule 49; and see 30 & 31 Vict. c. 102, s. 50.)

There is no alteration of the former law respecting the hours of polling.

POLL.
Time of.

In counties and boroughs alike the time of polling is limited to one day, and the poll begins at 8 a.m.; in counties it closes at 5 p.m., and in boroughs at 4 p.m. (16 & 17 Vict. c. 15; 5 & 6 Wm. 4, c. 36) (*b*).

In the universities the poll is limited to five days by 16 & 17 Vict. c. 68; 30 & 31 Vict. c. 102.

The only persons entitled to be present at a polling station, other than the presiding officer, his clerks, and the necessary constables, are the agents for detecting personation, who may be appointed by the candidates, and the candidates themselves, if they see fit; and it is the duty of the presiding officer carefully to exclude all persons other than the above (Rules 21, 51).

Persons
entitled to
be present.

(*a*) 34 G. 3. c. 73; 42 G. 3, c. 62.

(*b*) So in Ireland, 10 & 11 Vict. c. 81; 25 & 26 Vict. c. 62; except that the poll does not close in boroughs till 5 p.m.

In Scotland the hours are between 8 and 4 p.m. 5 & 6 W. 4, c. 78; 16 & 17 Vict. c. 28.

The special provisions of 31 & 32 Vict. c. 58, s. 16, as to Welsh contributory boroughs, are repealed.

Electors.

The poll is taken on the basis of the register formed under the Registration Act, 6 & 7 Vict. c. 18.

Conclu-
siveness of
register.

By s. 79 of that Act, and by s. 7 of the Ballot Act, the register is conclusive as to the right of a person to vote, subject to the proviso that nothing in the last-mentioned section shall entitle any person to vote who is prohibited from voting by statute or by the common law of Parliament, or to relieve any person from any penalties to which he may be liable for voting.

It is further to be observed that the provisoes at the end of s. 79 of 6 & 7 Vict. c. 18, disentitling a person to vote, who in a county has lost his qualification, and in a borough has ceased to reside, are repealed. As also is s. 98, which virtually gave an appeal from the revising barrister to an election judge as the substitute for a House of Commons committee, and allowed the same tribunal to decide on a right to vote disputed on the ground of legal incapacity (a).

It is therefore necessary only to consider what persons whose names are on the register are so prohibited through having become disfranchised, so to speak, by circumstances that have occurred since their registration.

Disqualifi-
cations
after regis-
tration.

The disqualifications which may accrue after registration are as follows—

First. *Personal*.—Lunacy, alienage, peerage.

Lunacy is immaterial, as a person disqualified on that score would be almost certain to be kept away from the poll.

Alienage also is immaterial. A man who had recently disclaimed his British nationality will most

(a) See *Stowe v. Jolliffe*, L. R. 9 C. P. 734.

probably be in a foreign country, and, at all events, care little for voting.

The acquisition of a peerage after registration is, of course, a common occurrence; but the new peer is almost certain to be known, and would not, probably, run the risk of voting, as his doing so would be a contempt of the resolution passed by the House of Commons in 1699 (Rogers, p. 193), and of the sessional order of the House of Commons, to the effect that a peer hath no right to give his vote at the election of any member to serve in Parliament. This resolution and order, according to Lord Campbell and other high authorities, are merely declaratory of the common law of England, and in a recent case the incapacity of peers to vote at parliamentary elections was treated as practically too clear for argument: *Beauchamp (Earl) v. Overseers of Madresfield*, L. R. 8 C. P. 245. And the case of an Irish peer falls within the same principle as that of an English peer, though with the qualification that an Irish peer who represents an English or Scotch constituency in the House of Commons is entitled to vote: *Lord Rendlesham v. Haward*, L. R. 9 C. P. 252.

Secondly. *Acceptance of office*.—The only disqualifying offices seem to be those of the magistrates and officers of metropolitan police courts and of policemen, and the disqualification extends only to elections held within certain limits. Policemen are subject to penalties of varying amount, according to the Acts by which they are regulated, for voting in contravention of the law (a).

(a) As to magistrates and officers of metropolitan police courts, 2 & 3 Vict. c. 71, s. 6; metropolitan police, 10 G. 4, c. 44,

PROCEDURE AT PARLIAMENTARY ELECTIONS.

The enactments disqualifying revenue officers were repealed by 31 & 32 Vict. c. 73.

But under this head may perhaps be classed the numerous persons who are disqualified by accepting employment at an election for which they would otherwise be entitled to vote.

These persons are defined by 30 & 31 Vict., cap. 102, s. 11. which enacts that—

“No elector who within six months before or during any election for any county or borough shall have been retained, hired, or employed for all or any of the purposes of the election for reward, *by or on behalf of any candidate at such election, as agent, canvasser, clerk, messenger, or in other like employment, shall be entitled to vote at such election; and if he shall so vote he shall be guilty of a misdemeanor.*” (a)

Thirdly. *Receipt of Parochial Relief*.—Persons who have received parochial or other alms since the date of the revision are disqualified from being registered by 2 & 3 Wm. 4, c. 45, s. 36, amended by 30 & 31 Vict. c. 102, s. 40 (b). But if the receipt of parochial relief has occurred since the registration, the disqualification is by common law only, and it is apprehended that a pauper is subject to no punishment for voting, nor is his vote liable to be struck off on a scrutiny. *Stowe v. Jolliffe*, L. R. 9 C. P. 733. “Other alms”

s. 18; 23 & 24 Vict. c. 135, s. 5; City of London police, 2 & 3 Vict. c. xciv. s. 8; County police, 2 & 3 Vict. c. 93, s. 9; Borough police, 19 & 20 Vict. c. 69, s. 9. So as to constables in Scotland, 20 & 21 Vict. c. 72; in Ireland, 6 & 7 Wm. 4, c. 13.

(a) A similar provision is found in the Scotch and Irish Acts, 31 & 32 Vict. cc. 48 and 49.

(b) In Scotland, by 31 & 32 Vict. c. 48.

appear to mean only such charities as form a part of the general parish resources for the relief of the poor, and are managed by the overseers (a).

Fourthly. *Crime*.—Traitors and felons are disfranchised by 33 & 34 Vict. c. 23. It may be assumed that these persons cannot come to the poll; but such an assumption cannot be made with respect to persons disqualified by conviction for perjury (2 Geo. 2, c. 24, s. 6), or for corrupt practices at parliamentary elections, either under the general Acts, 17 & 18 Vict. c. 102, s. 6, 31 & 32 Vict. c. 125, ss. 43 & 45, or under special Acts, or for corrupt practices at municipal elections, 22 Vict. c. 35, s. 11, or at school-board elections, 33 & 34 Vict. c. 75, s. 91.

As the persons guilty of corrupt practices are declared incapable of voting, they would probably be guilty of a misdemeanor at common law for voting in contravention of a statute, but are not subject to any specific penalty.

If, then, a disqualified person whose name is on the register presents himself at a polling station, and answers the authorised questions, and takes the authorised oath, the presiding officer cannot refuse to deliver a ballot paper to him. Nor are there any practical means of preventing such a person from voting, if he is willing to incur the penalty (if any) assigned for his contravention of the law.

Although there is no enactment which prohibits a presiding officer (being a registered elector) from voting, there is good reason why he should not do so.

(a) Rogers, p. 214.

First, during the time occupied in applying to one of his clerks for a ballot paper and marking his vote (*a*), he would be necessarily abdicating his functions as presiding officer. Secondly, the act of voting is in itself entirely inconsistent with the impartiality above suspicion demanded from him. Thirdly, his position is analogous to that of the returning officer, who is expressly prohibited by s. 2 of the Ballot Act from recording an original vote.

The above reasoning applies, though with somewhat less force, to the polling clerks.

Questions
and oath
at poll.

The oaths required to be taken at the poll, which at one time were very numerous, and created great delay, were, by 2 Wm. 4, c. 45, s. 58, 5 & 6 Wm. 4, c. 36, s. 6, and 6 Vict. c. 18, ss. 81, 82, reduced to two—the bribery oath, and the oath to the truth of the voter's reply to the questions as to his identity and as to his having already voted, contained in 6 Vict. c. 18, s. 81. By 17 & 18 Vict. c. 102 the bribery oath was abolished.

The law is now regulated by 6 Vict. c. 18, ss. 81, 82 (*b*), which provides that at no county or borough election shall any inquiry be permitted at the time of polling as to the right of any person to vote, except only as follows; (that is to say) That the returning officer or his deputy shall, if required on behalf of

(*a*) It would be impossible for a presiding officer to vote unless entitled to do so at his own station: at least he would incur serious liability by leaving his station for that purpose.

(*b*) In Ireland, by ss. 88-9 of 13 & 14 Vict. c. 69, to the same effect. In Scotland, a declaration takes the place of the questions and oath authorised in England and Ireland (24 & 25 Vict. c. 10, s. 45, and Sched. D). So much of this declaration as relates to the possession of qualification is repealed by the Act.

any candidate, put to any voter at the time of his tendering his vote [*i.e.* when he applies for a ballot paper, s. 15], and not afterwards, the following questions, or either of them :—

1. Are you the same person whose name appears as *A.B. (a)* on the register of voters now in force for the county or riding, &c. of
or for the city [*or borough*] of [as
the case may be]?
2. Have you already voted, either here or elsewhere, at this election for the county or riding, &c., of or for the city [*or borough*]
of [as the case may be]?

Any person wilfully making a false answer to either of the questions aforesaid, is to be deemed guilty of a misdemeanor, and may be indicted and punished accordingly. The returning officer or his deputy [*or a commissioner or commissioners to be for that purpose by law appointed (b)*] must also, if required on behalf of any candidate at the time aforesaid, administer an oath to any voter in the following form :—

“ You do swear [*or affirm, as the case may be*], that you are the same person whose name appears as *A. B.* on the register of voters now in force for the county or riding, &c., of or for the city or borough of [*as the case may be*], and that you have not before voted, either here or elsewhere, at the present election for the county or riding, &c., of

(a) Merely thus asking the name would not unfrequently (*e. g.* in the case of five John Smiths on the register) avail little to identify the voter, and it can hardly be doubted that the place of abode on the register as well as the name should be put to him.

(b) Repealed by the Ballot Act.

or for the city or borough of [as the case may be].

“So help you God.”

The first of the above questions is not a question as to literal identity of name, but as to substantial identity of person. Accordingly the presiding officer, if satisfied that there is (for example) a mere error of Christian name, or a mere change of address, should not refuse a ballot paper to the applicant. The statutes are not to be construed so as to disfranchise. It is, however, the duty of the clerks to refer to the presiding officer all cases in which the name and address given by the applicant do not tally with that on the register.

Both the questions and the oath may under the Ballot Act be asked and administered by the presiding officer or a clerk (s. 10). But it would seem improper for a clerk to take on himself these functions without the sanction of the presiding officer.

Section 82 of 6 & 7 Vict. c. 18, further enacts that, save as aforesaid, it shall not be lawful to require any voter at any parliamentary election to take any oath or affirmation, either in proof of his freehold, or of his residence, age, or other qualification or right to vote; nor to reject any vote tendered at such election by any person whose name is on the register, except by reason of its appearing to the returning officer or his subordinate, upon putting such questions as aforesaid, or either of them, (1) That the person so claiming to vote is not the same person whose name appears on the register; or (2) That he had previously voted at the same election; or (3) Except by reason of such person refusing to answer the said

questions or either of them, or to take the said oath, or make the said affirmation.

Before the opening of the poll, the returning officer, and every officer, clerk, or agent authorised to attend at a polling station must make a statutory declaration of secrecy; but otherwise no oath or declaration is required from any of the above persons (Rule 54). The declaration of a returning officer is to be taken before a justice, that of any other officer or of an agent before a justice or the returning officer. A form is given in Schedule II., and it is simply a promise by the declarant that he will not do any of the things forbidden by section 4 of the Ballot Act, which must be previously read over to him. That is to say—

Declara-
tion of
secrecy.

- (1) That he will not communicate before the poll is closed to any person any information as to the name and number on the register of any elector, or as to the official mark; or,
- (2) Interfere with, or attempt to interfere with, a voter when marking his vote; or,
- (3) Otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote, or has voted; or,
- (4) Communicate at any time to any person any information obtained in a polling station as to the number on the back of his ballot-paper; or,
- (5) Directly or indirectly induce any voter to display his ballot-paper after he has marked the same, so as to make known his vote to any person; or,

- (6) Attempt to ascertain at the counting the number on the back of any ballot-paper, or communicate any information obtained at such counting as to the vote of any voter.

The penalty for contravention of any of the provisions of the section (not, be it observed, for breach of the declaration) is imprisonment for six months, with or without hard labour.

No declaration is required from constables, nor from a candidate; who, under Rule 51, is permitted to be present at a polling station. The offences numbered (2), (3), (4), and (5), are, however, by s. 4, made offences by whomsoever they are committed, and constables and candidates are consequently amenable under it.

The right of a candidate to be present in a polling station is an absolute right, and not merely a qualified right to be present for the purpose of undertaking the duties of an agent, or of assisting an agent: *Clementson v. Mason*, L. R. 10 C. P. 209.

Com-
mence-
ment of
poll.

Immediately before the commencement of the poll, the presiding officer at each polling station must show the ballot-box empty to the persons, if any, present in the station, so that they can see that it is empty; he must then lock it and seal it, so that it cannot be opened without breaking the seal, and must place it so locked and sealed within his view, ready for the reception of ballot papers (Rule 23).

The form of directions to voters placarded inside and outside each polling station will state for how many candidates each voter is entitled to vote. The general rule is that a voter may vote for all, or for some, or for only one of the candidates; but by 30

& 31 Vict. c. 102, ss. 9 & 10, at a contested election for any county or borough represented by three members no person may vote for more than two candidates, nor at a contested election for the City of London (which has four members) for more than three. In the case of the Universities, a voter using a voting paper is restricted to the number of vacancies (*a*).

The directions as to the mode of voting are contained in Rules 24—28 inclusive, and, though necessarily somewhat elaborate, are so clearly framed that no difficulty can arise as to their meaning. The elector must first ascertain what station is allotted to him, as he will not be admitted to vote at any other; and here it may be observed that the presiding officer must not allow more electors to enter at one time than can be conveniently accommodated (Rules 18, 21).

Mode of
voting.

On the elector entering the station, the presiding officer or his clerk, after satisfying himself (asking the authorised questions, and administering the oath, if required), that the voter is entitled to vote at such station, will stamp a ballot-paper with the official mark, call out the number, name, and description of the voter, as stated in the copy of the register, enter such number on the counterfoil of the ballot-paper, and place a mark or tick in the copy of the register against the number of the elector, to denote that he has received a ballot-paper, but not that he has received any particular ballot-paper, and will then deliver the ballot-paper to the elector (Rule 24).

A ballot-paper must only be stamped with the official mark just before it is delivered to an elector, precisely

(*a*) 24 & 25 Vict. c. 53, s. 2. See as to Glasgow, 31 & 32 Vict. c. 48, s. 7.

as a railway ticket is stamped just before it is delivered to a passenger.

It will be observed that although the mark placed in the register does not connect the elector with any particular ballot-paper, yet the entry of the elector's number on the counterfoil (which has a number corresponding with the number on the back of the ballot-paper) will denote that a particular ballot-paper has been issued to such elector, and thus will enable the vote to be traced in the event of a scrutiny (*see* Rule 43).

On receiving the ballot-paper, the elector must forthwith proceed into one of the compartments, and there without any unnecessary delay mark his paper (Rule 25) by placing a cross on the right-hand side, opposite the name of each candidate for whom he votes, taking care not to vote for more candidates than he is entitled to vote for, as stated in the placarded directions. The simple rules to be attended to by the voter are (1) to place his cross with sufficient distinctness in the space opposite the name of each candidate for whom he votes; (2) to place no other mark or writing of any kind upon the paper. (*See* form and directions in Schedule II.)

So soon as he has marked his vote he must fold up his paper so as to conceal his vote, then, leaving the compartment, show the official mark at the back to the presiding officer, and then put his paper so folded up into the ballot-box, and *at once* quit the station (s. 2, Rule 25). Compliance with this last regulation should be strictly enforced by the presiding officer. He will, of course, take care that no paper wanting the official mark is introduced into the ballot-

box, and should at once order into custody any person detected in attempting fraud.

It is clearly the intention of the Ballot Act that only one presiding officer should be appointed for each polling station, and if this plan is followed and the duties of the presiding officer are confined to keeping order, and to attending to his ballot-box, no difficulty can arise with respect to the introduction of invalid papers (*a*). If it should happen that a genuine paper wants the official mark, the proper course is for the presiding officer to get the paper stamped, and then hand it back to the voter to be placed in the box. With regard to the alleged hardship of disfranchising a voter because the clerk has failed to stamp his paper, it must be remembered that it is the voter's own fault if he does not himself look for the mark. At the general election for Leeds, in 1874, when 31,793 persons voted, there was not one paper without the official mark.

By section 15 of the Ballot Act any person applying for a ballot paper is deemed to "tender his vote" or to "assume to vote," and an application for a ballot paper is equivalent to "voting" within the meaning of the enactments relating to elections.

Every officer, clerk, and agent in attendance at a station is bound to maintain the secrecy of the voting so far as in him lies, and it is especially the duty of the presiding officer to check at once any attempt to

(*a*) See in App. III. the account of the system adopted at the Westminster Election of 1874, which appears to be substantially the same as that described to the Select Committee of 1876, by the Town Clerk of Leeds.

Excep-
tions to
ordinary
mode of
voting.

interfere with the voter or ascertain how he is voting or has voted (s. 4).

Such is the ordinary routine of voting: three exceptional cases are dealt with as follows :—

1. *Spoilt ballot-papers*.—Supposing a voter inadvertently to have spoilt the ballot-paper delivered to him, by tearing it or otherwise, he may on giving up such paper to the presiding officer, and proving to the satisfaction of that official the fact of the inadvertence, obtain another ballot-paper in lieu of the spoilt paper, which is at once to be cancelled (Rule 28).

2. *Tendered votes*.—If a person, representing himself to be a particular elector, applies for a ballot-paper after another person has voted as such elector, he will, on answering the authorised questions and taking the authorised oath (a), be entitled to have a ballot-paper delivered to him, and to mark it like any other voter. But the ballot-paper (in the Ballot Act called a tendered ballot-paper) will be of a colour differing from the other ballot-papers, and, instead of being put by the voter into the ballot-box, must be handed to the presiding officer, who will endorse it with the name of the voter and his number on the register, and set it aside in a separate packet. The name of the voter and his number will be entered on a list called “the tendered votes list” and his ballot-paper will not be counted by the returning officer (Rule 27). It must be remembered that personation is the only case in which a vote can now be tendered, the register being made conclusive as explained above.

(a) *Supra*, p. 38.

3. *Incapacitated persons.*—Under this head are ranged three classes of persons whose ballot-papers are allowed to be marked for them.

(a) Persons incapacitated by blindness or other physical cause from voting in manner prescribed by the Act.

(b) Persons who if the poll be taken on a Saturday declare themselves Jews, and object on religious grounds to vote in manner prescribed by the Act.

(c) Persons who declare themselves unable to read.

A form of declaration of inability to read is given in Schedule II., which must be read over by the presiding officer to the declarant at the time of polling, and then signed by him in presence of the presiding officer with his mark, and attested by the presiding officer. No fee is to be charged. As it may be questioned whether there is any obligation on the returning officer to furnish forms, the elector should come provided with one.

On the application of any elector belonging to any of the above classes, the presiding officer must, in the presence of the agents of the candidates (a), cause his vote to be marked on a ballot-paper in manner directed by him, and the paper to be placed in the ballot-box. The name and number on the register of every elector whose vote is marked in pursuance of this rule, and the reason why it is so marked, are to be entered on a list called "the list of votes marked by the presiding officer" (Rule 26). The penalties on infringement of secrecy under s. 4 apply, of course,

(a) There is some difficulty as to the exact meaning of these words. Probably they entitle the agents to see the vote actually marked.

with respect to votes thus marked ; and a separate compartment, by the seat of the presiding officer, should be provided for the purpose of marking them. This is one of the duties on which an extra clerk may be usefully employed.

It is apparent that the special provision as to illiterate voters might be used for purposes of delay, and even for purposes of bribery and intimidation ; and it is also argued, with considerable force, that the provision is unnecessary, and that most *bond fide* illiterate voters would be able to discover for themselves the order of the candidates' names. The Select Committee of 1876 consequently recommended the abolition of all special provisions for the assistance of illiterate voters ; though, if a separate compartment is provided, with an extra clerk, the principal objections taken by the witnesses before that Committee would be obviated.

The practice of issuing returns as to the state of the poll during the continuance of the polling is practically at an end under the Ballot Act. At least such returns, however attempted, can at the best be only inferences from the known or supposed proclivities of the electors who apply for ballot-papers, nothing being *known* as to the vote of a single elector.

Personation.

The statutory provisions against personation prior to the Ballot Act are contained in 6 Vict. c. 18, s. 83, *seq.* (a). They declare the offence to be a misdemeanor, and provide for the immediate arrest of the offender, and his being taken before justices, by whom he may be committed to answer the charge.

(a) The law in Ireland is substantially the same. 13 & 14 Vict. c. 60, ss. 90-98.

Sections 83 and 84 are repealed by the Ballot Act, and in Part III. (s. 24), a new and extended definition of personation applicable to the altered mode of voting is given: the commission of the offence, or aiding and abetting its commission, is made a felony; and it is declared to be the duty of the returning officer to prosecute offenders. The material portion of the section is as follows:—

Provisions
of Ballot
Act.

“A person shall for all purposes of the laws relating to parliamentary and municipal elections be deemed to be guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot-paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot-paper in his own name.”

“The offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, shall be a felony, and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years, together with hard labour. It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer.”

The provisions of the Registration Acts, specified in the Third Schedule to the Ballot Act, (a) are applied to

(a) 6 & 7 Vict. c. 18, ss. 85 to 89 inclusive, as to England; 13 & 14 Vict. c. 69, ss. 92 to 96 inclusive, as to Ireland.

personation under the Act in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Acts. They empower and require the returning officer or his deputy (*i.e.* the presiding officer) to direct the arrest of any person charged with personation by an agent at a station in order that he may be taken before two justices who may either commit him for trial or discharge him, and in certain cases award compensation to be paid by the agent bringing the charge of personation. This latter provision is but just, since on the agent undertaking to prove his charge the presiding officer has no option but to direct the arrest. Further, the offence of personation is to be deemed to be a corrupt practice within the meaning of the Parliamentary Elections Act, 1868. (a)

Moreover, under this same section 24 any candidate who, on the trial of an election petition questioning the election or return for any county or borough, is found by the report of the judge by himself or his agents to have been guilty of personation, or to have aided, abetted, counselled, or procured the commission at such election of the offence of personation by any person, is declared to be incapable of being elected or sitting in Parliament for such county or borough during the Parliament then in existence.

This section, together with the other enactments of Part III. of the Act, applies to an election for a university or combination of universities (s. 27).

It will be recollected that by Rule 27 (substituting

(a) 31 & 32 Vict. c. 125. See particularly the provisions as to the Punishment of Corrupt Practices, ss. 43—47.

new provisions for those of s. 91 of 6 & 7 Vict. c. 18, which is repealed), a person representing himself to be a particular elector, and applying for a ballot paper after another person has voted as such elector, is, whether *personator* or *personatee*, permitted to vote upon answering the authorized questions, and taking the authorized oath. In fact, this is the only case in which a "tendered vote" is received. (a)

The agents for detecting personation already mentioned, may be appointed by any candidate in pursuance of s. 85 of 6 & 7 Vict. c. 18; (b) and written notice must be given by each candidate to the returning officer of the names and addresses of any agents so appointed by him. They are entitled to be present at and during the polling solely for the purpose of watching against attempts at personation, and must abstain from any interference whatever with voters, and from any infringement of secrecy prohibited by s. 4. On any misconduct they will be liable to be removed from the polling station by order of the presiding officer, and debarred from entering it again (s. 9).

"Personation agents,"

Section 85 of 6 & 7 Vict. c. 18 does not limit the number of agents which a candidate is authorized to appoint, but no doubt the returning officer would be justified in refusing to admit an unreasonable number into a polling station. The recommendation of the Select Committee of 1876 "that each candidate should "have the right to appoint one representative at each "polling station at which papers are delivered to "voters," seems to limit the number unduly, as it may

Number of.

(a) *Supra*, p. 46.

(b) *See* Rule 57.

be desirable to have an agent for every clerk entrusted with the delivery of ballot papers.

Candidates should give at least twenty-four hours' notice to the returning officer of the names and addresses of their agents; and each agent should be furnished by the returning officer with a card of admission to the polling station.

"Count-
ing
agents."

It will be convenient to mention here that in addition to agents appointed under the above mentioned enactment, a candidate is also permitted by Rule 31 to appoint agents to attend the counting of the votes, and notice of the names and addresses of such agents must be transmitted, by post or otherwise, to the returning officer at least one clear day before the opening of the poll. If this provision be not complied with, an agent otherwise validly appointed will be liable to be excluded from the place where the votes are counted (Rule 52). The declaration of secrecy required from a personation agent is equally required from an agent authorized to attend the counting of the votes (Rule 54); and as the declaration is required to be made before the opening of the poll, he should be appointed in good time accordingly. The personation agents and the "counting" agents will, however, be no doubt in many instances the same persons.

Under Rule 53 a vacancy occurring during the time of the election in the office of agent through death or incapacity to act, may be filled up, notice in writing of the name and address of the person appointed being given at once, as in the case of an original appointment, to the returning officer.

A candidate may (so to speak) be his own agent, or

assist his agent, and be present at any place at which his agent may attend (Rule 51) (a), and it only remains to draw attention to the provisions of Rule 55 as to the construction of words respecting the presence of agents, which are as follows, and require no explanation.

Rule as to presence of agents.

“Where in this Act any expressions are used requiring, or authorizing, or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.”

A returning officer has at common law, (unless taken away by the limitation of the poll to one day), and also by statute (see 2 Wm. 4, c. 45, s. 70 ; 16 & 17 Vict. c. 15, s. 3, as to counties, and 5 & 6 Wm. 4, c. 36, s. 8, as to boroughs), a power to *adjourn* the poll *de die in diem*, in cases of riot, until the interruption ceases ; but a poll cannot (it seems) be *closed* on the ground of riot (b).

Adjournment of poll.

There is no defined mode of closing the poll, and an express power is reserved to the returning officer by 2 Wm. 4, c. 45, s. 70 (c), of closing the poll previous to the expiration of the time fixed by that

Closing of poll.

(a) The right of a candidate to be present is an absolute right. *Clementson v. Mason*, L. R. 10 C. P. 209, *supra*, p. 42.

(b) See cases cited in Rogers, p. 304.

(c) As to Scotland, 16 & 17 Vict. c. 28, s. 9. As to Ireland, 13 & 14 Vict. c. 68, s. 18 ; 25 & 26 Vict. c. 62, s. 6.

Act, in any case where the same might have been lawfully closed before the passing of that Act. But a returning officer cannot be too cautious in the exercise of a power conveyed in such terms, and it is difficult to conceive circumstances under which it would be proper to close a poll before the expiration of the legal period for taking it. A poll once duly closed cannot be re-opened. .

**PROCEED
INGS ON
CLOSE OF
POLL.**

Directions respecting the mode of dealing with the ballot-papers and other documents, on the close of the poll, are found in Rules 29 & 30 (*a*).

The first business of each presiding officer will be to secure and seal up the ballot-boxes in use at his station, so as to prevent the introduction of additional ballot-papers (*b*) (s. 2). He will then proceed at once, in the presence of the agents, to make up into separate packets, attaching his own seal to each packet, and allowing any agent who wishes to attach his seal also—

- (1.) Each ballot-box in use at his station, unopened, but with the key attached ;
- (2.) The unused (*c*) and spoilt ballot-papers, placed together ;
- (3.) *The tendered ballot-papers ;*
- (4.) *The marked copies of the register of voters, and the counterfoils of the ballot-papers ; (d)*

(*a*) The provisions of 2 Wm. 4, c. 45, ss. 65 & 68, are repealed.

(*b*) A sliding lid for the aperture of the ballot-box may be suggested.

(*c*) Not separated from their counterfoils.

(*d*) Including the counterfoils of the tendered ballot papers (if any).

(5.) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read; and unless himself the returning officer, to deliver the several packets to the returning officer (Rule 29). Great care must be taken in making up the different classes of papers into *separate* packets, as those above distinguished by italics are not allowed to be opened by the returning officer (Rule 37). Moreover the marked copies of the register and the counterfoils of the ballot-papers should be separately made up, since under rules 41 and 42 the former when forwarded to the clerk of the crown are to be open to public inspection, the latter are not.

Together with the packets above described, the presiding officer must hand in to the returning officer a statement (called "the ballot-paper account"), accounting for all the ballot papers issued to him under the heads of "ballot-papers in the ballot-box," "unused," "spoilt," and "tendered," as the case may be (Rule 30). On the delivery of the above account, made out with complete accuracy, the presiding officer may be considered *functus officio*; and it remains only for the returning officer to ascertain the result of the poll, by counting the votes, and to make his return accordingly.

As soon as the ballot-boxes and other packets are handed in from all the stations, the returning officer

COUNT-
ING THE
VOTES.

is in a position to commence the counting of the votes. In the case, however, of a large constituency it will often be desirable to postpone the counting of the *votes* till the next day, even if the *papers* be counted on the day of the poll.

Persons
permitted
to be
present.

The returning officer must give written notice to the agents appointed by the candidates to attend the counting under Rule 31 (s. 2), of the time and place at which he proposes to commence, and such agents, and the assistants (Rule 48, which seems to contemplate persons of a superior grade to mere clerks) and clerks of the returning officer, and any person expressly authorized by the returning officer, are the only persons, besides the returning officer himself, who are permitted to be present at the counting (Rules 31—33) (a). It is perhaps superfluous to remark that the returning officer would not be justified in sanctioning the presence of any person other than those specifically enumerated, save for the purpose of assisting him in his labours.

Proceed-
ings before
counting.

Before commencing to count the *votes*, the returning officer must, in the presence of the agents, open each ballot-box, take out the papers therein, and count and record the number of such papers, so as to check any attempt at a fraudulent addition to their number. He must then mix together the whole of the papers contained in the ballot-boxes. Both during the counting of the papers, as well as during the counting of the votes, care must be taken to keep them with their faces upwards, so that no person may see the numbers printed on the backs of such papers (s. 2, Rule 34).

(a) Where the votes are numerous, a large staff will be necessary.

Section 4 must here be again referred to, which prohibits any attempt to ascertain at the counting the number at the back of any ballot-paper, as well as the communication of any information obtained at the counting as to the candidate for whom any vote is given in any particular ballot-paper. It will be remembered that the penalty for disobedience is six months' imprisonment.

The returning officer on commencing the actual Counting. counting the votes, will proceed continuously with the counting (allowing only time for refreshment), except during the hours between 7 P.M. and 9 A.M., but he may, by agreement with the agents, proceed also during any of the excepted hours. Where possible, he should arrange to complete the counting at one sitting, but he cannot proceed during the excepted hours against the wish of the agents (Rule 35).

During any hours excepted, either in exact conformity with the above enactments or in pursuance of any such agreement, the returning officer must place under his seal, and under the seal of such agents as choose, the ballot-papers and other documents relating to the election, and must provide for their safe custody (Rule 35). Great precaution should be used in observing these directions, in order to exclude the possibility of the papers being tampered with; and they ought no doubt to remain under the personal care of the returning officer or in some public building in the custody of the police.

By sect. 2 any ballot-paper is void, and shall not be counted,

(a) Which has not on its back the official mark;

Decision as to validity of votes.

- (b) On which votes are given to more candidates than the voter is entitled to vote for (a);
- (c) On which anything, except the number printed on the back, is written or marked by which the voter can be identified.

An unmarked paper, it is needless to state, cannot be counted, and it appears from Rule 36, that the returning officer may also reject any paper which is so marked as to be void for uncertainty. Where the returning officer rejects any paper as invalid on any of the above grounds, he must endorse such paper as "rejected," and if an objection to his decision be made by any agent, he must add to that endorsement "rejection objected to" (Rule 36). His decision is subject to reversal on a petition questioning the election or return: otherwise it is final (s. 2). The papers rejected are made up in a separate packet (*infra*, p. 62).

Report of
rejected
papers.

A report of the number of papers rejected must be made by the returning officer to the Clerk of the Crown in Chancery under the following heads:—

1. Want of official mark.
2. Voting for more candidates than entitled to.
3. Writing or mark by which voter could be identified.
4. Unmarked or void for uncertainty.

And this report, before it is sent, may be copied by any of the agents (Rule 36).

Principles
for deter-

The Court of Session in Scotland, in the Wigtown case, (b) construed the directions for the guidance

(a) This only applies in the case of the particular constituencies above mentioned. *Supra*, p. 43.

(b) *Haswell v. Stewart*, 2 O'M. & H. 215, 1 Court of Sess. Ca. 4th Series, 925.

of voters in Sched. II. to the Ballot Act with extreme strictness, and held

mining
validity of
votes.

- (1.) That it is essential to a valid vote that the ballot paper be marked with a cross and not a mere line, but that a badly formed cross or a cross with the addition of small strokes, so as to resemble the letter X, will not render the vote null.
- (2.) (*Diss.* Lord Benholme) That a ballot paper with the cross decidedly to the left of the candidate's name must be rejected.
- (3.) That any mark on the back of the ballot paper other than the printed number renders the vote null.
- (4.) (*Diss.* Lord Benholme) That any substantive and separate mark on the face of the ballot paper in addition to the cross, such as a superfluous cross, will render the vote null.
- (5.) That it is not essential that the cross be made with the pencil provided in the compartment, but that it may be made with any pencil or ink not peculiar.

That the above decision was wrong in treating the directions for the guidance of the voter in Schedule II. of the Ballot Act as *imperative* and not as *directory* is, it is apprehended, clearly demonstrated by the first English case (*a*) in which the same point was fully considered.

In that case the Court of Common Pleas held that the ballot paper must not be marked so as to show that the voter intended to vote for more candidates than he was entitled to vote for, nor so as to leave it

Case of
Woodward
v. Sarsons.

(*a*) *Woodward v. Sarsons*, L. R. 10 C. P. 733; and see the *Athlone Case*, 2 O'M. & H. 187.

uncertain whether he intended to vote at all, or for which candidate he intended to vote ; nor so as to make it possible, by seeing the paper itself, or by reference to other available facts, to identify the way in which he had voted. That if these requirements were not substantially fulfilled, the ballot paper was void and should not be counted ; and if it was counted, it should be struck out on a scrutiny. That ballot papers with the name of the voter or of the candidate voted for written opposite to the name of the latter and not marked with a cross, or with the addition of "cu" to the cross, were void.

But that the placing of two crosses, or three crosses, or a single stroke (thus /) in lieu of a cross, or a straight line (thus !), or a mark like an imperfect letter P in addition to the cross, or a star instead of a cross, or a cross blurred or marked with a tremulous hand, or a cross placed on the left-hand side of the ballot paper, or a pencil line drawn through the name of the candidate not voted for, or a ballot paper torn longitudinally through the centre,—did not avoid the vote, in the absence of evidence of connivance or pre-arrangement.

The result then is that, assuming the Act to be otherwise complied with, the returning officer should exercise his discretion in favour of the validity of ballot papers not marked strictly in accordance with the directions in Schedule II. to the Ballot Act, provided he has no reasonable doubt for whom the votes are intended, and that the irregular mode of marking does not appear to be adopted for the purpose of identifying the voter, either on the face of the paper itself or by reference to other available facts.

Where twenty ballot papers of illiterate voters marked by the presiding officer were placed by him in the ballot box, each being wrapped up in the declaration of inability to read made by the voter, so that these votes could have been, though in fact they were not, identified by the returning officer at the counting, it was held that the votes in question were properly counted. *Woodward v. Sarsons, ubi supra.*

The returning officer is prohibited from voting himself at an election for any county or borough, unless an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be elected. In that case the returning officer, if he be a registered elector of such county or borough, may give such additional vote; if he be not, he must make a double return (s. 2). This is an alteration of the previous law, under which a double return was made by custom; the returning officer having (if qualified) a vote, but no casting vote (a).

Casting
vote of
Returning
Officer.

The result of the poll being ascertained, the returning officer is directed by sect. 2 of the Ballot Act "forthwith" to declare elected the candidate or candidates to whom the majority of votes have been given, and to return their names to the Clerk of the Crown. An open declaration of the result is not now required as formerly, but by Rule 45 he must, as

DECLARA-
TION OF
THE RE-
SULT.

(a) A double return was obligatory in Scotland (2 & 3 Wm. 4, c. 65, s. 33); and forbidden in Ireland (35 Geo. 3 (I.), c. 29, s. 13; 4 Geo. 4, c. 55, s. 68). In Scotland he had neither vote nor casting vote; in Ireland both vote and casting vote, and the latter he was obliged to give, whether he were otherwise qualified to vote or not (Rogers, p. 209 n.).

soon as possible, give public notice of the names of the candidates elected, and of the total number of votes given for each candidate, whether elected or not.

Under the previous law (2 Wm. 4, c. 45, ss. 65 & 68) the declaration of the result of the poll was made openly in counties not later than 2 P.M. on the next day but one after the closing of the poll; in boroughs, immediately after the close of the poll, or, in the discretion of the returning officer, on the following day. These enactments are repealed (a).

**ELECTION
DOCU-
MENTS
HOW
DEALT
WITH.**

Having declared the result of the poll, the returning officer must seal up, in separate packets, the counted and rejected ballot papers. He will then proceed, in the presence of the agents, to verify the ballot paper accounts handed to him by the presiding officers, by comparing them with the number of ballot papers taken out of the boxes and recorded by him as aforesaid, the unused and spoilt ballot papers in his possession, and the tendered votes list. The two last-mentioned packets must be resealed as soon as their contents have been examined. The returning officer must make out and despatch to the Clerk of the Crown a report of the result of such verification, and, if requested, must allow any agent to copy it before it is sent off (Rule 37).

The sealed packet of tendered ballot papers, and the packets (see above, p. 54) of the marked copies

(a) As are the Scotch and Irish enactments. 2 & 3 Wm. 4, c. 65, s. 33 (see 16 & 17 Vict. c. 28, s. 8), as to Scotland; 13 & 14 Vict. c. 68, ss. 4 & 16; 25 & 26 Vict. c. 62, s. 5, as to Ireland.

of the register of voters and counterfoils, are not to be opened at all.

Finally, the returning officer is to forward to the Clerk of the Crown (in the same manner as the poll books were forwarded under 6 & 7 Vict. c. 18, s. 93) all the packets of ballot papers in his possession, together with his reports (of the number of rejected ballot papers and of the result of his verification of the ballot paper accounts), the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, sent by each presiding officer. On each packet he must endorse a description of its contents and the date of the election to which they relate, and the name of the county or borough for which such election was held (Rule 38).

Documents
to be for-
warded to
Clerk of
the Crown.

Under 6 & 7 Vict. c. 18, s. 93, the returning officer is directed to deliver the poll books to the Clerk of the Crown, or to the postmaster of the place where the election is held, who must give him a receipt for them, stating therein the time of their delivery, and himself keeping a duplicate of the receipt, signed by the returning officer. The postmaster must transmit them, directed to the Clerk of the Crown, by the first mail, to the General Post Office in London, and they must be immediately delivered to the Clerk of the Crown.

The returning officer is by the same mail to advise the Clerk of the Crown of the transmission of the poll books, and to give him the number and description thereof, and, on the receipt thereof, the Clerk of

the Crown is to give a receipt stating the day and hour of delivery, and then to register such receipt in his office, endorsing the day and hour on such poll books.

By Rule. 38 the term "poll book" in the above enactment includes any document forwarded in pursuance of that rule.

Disposal of
documents
by Clerk
of Crown.

It may here be added that the Clerk of the Crown is to retain for a year all the documents forwarded to him, and then, unless otherwise directed by the House of Commons, or the High Court of Justice, to cause them to be destroyed (Rule 39). With reference to particular papers in his custody, the inspection of rejected ballot papers is only allowed under a similar order, for the purpose of prosecuting some offence in relation to ballot papers, or of questioning an election or return (Rule 40); the opening the sealed packet of counterfoils, or the inspection of counted ballot papers, is only allowed by order of the House of Commons, or some tribunal having cognisance of election petitions (Rule 41). Documents other than ballot papers and counterfoils are to be open to public inspection, at such time and under such regulations as may be prescribed by the Clerk of the Crown, with the consent of the Speaker of the House of Commons (Rule 42) (a). But the discussion of these provisions, as also of those of Rule 43, in relation to Evidence, belongs rather to a work on the Law of Election Petitions (b).

(a) Regulations have been made authorizing the inspection of these documents between the hours of 11 A.M. and 2 P.M.; copies or extracts therefrom are to be charged at twopence per folio of 72 words.

(b) See note to Rule 41, *Stowe v. Jolliffe*, L. R. 9 C. P. 446.

The result of s. 2 of the Ballot Act, coupled with Rule 44, is in effect that the return is to be made by the earliest post after the declaration of the result, instead of, as heretofore in counties, on the day but one after the close of the poll; in boroughs on the day of the close of the poll, or on the next day.

RETURN
OF WRIT.
Under old
law.

The 7 Hen. 4, c. 15 (A.D. 1405), ordained the mode in which returns were to be made in the case of county elections :—"After that they" (*i.e.*, the knights) "be chosen, the names of the persons so chosen, be they present or absent, shall be written in an indenture under the seals of all them that did choose them, and tacked to the same writ of the Parliament; which indenture, so sealed and tacked, shall be holden for the sheriff's return of the said writ touching the knights of the shire." See also 8 Hen. 6, c. 7; 10 Wm. 3, c. 7.

This mode of return has been substantially observed down to the present day; but the immense increase in the number of voters having rendered it impossible to subjoin the signatures of all, the signature of one or a few, for all, has been in practice considered sufficient. The indenture thus signed was tacked to the writ and returned to the Clerk of the Crown.

In English and Irish boroughs also, the return was made after the same manner as in counties; the writ, with the indenture tacked to it, being sent direct to the Crown Office by the returning officer. In Scotland no indenture was used.

Under the Ballot Act the indenture is altogether abolished, and, by Rule 44, a certificate of the names

Under
Ballot
Act.

of the member or members elected, under the hand of the returning officer, and endorsed on the writ, is substituted; and the writ, with such certificate endorsed, may be delivered to the postmaster of the principal post-office of the place of election, to be forwarded by the first post to the Clerk of the Crown, under cover, endorsed with the words: "Election Writ and Return." (*See* form of certificate in Sched. II.) By s. 2 of 7 & 8 Wm. 3, c. 25, the returning officer is prohibited from receiving any fee for making out the return.

Time of
completion
of
return.

It was decided in the case of *Hurdle v. Waring*, L. R. 9 C. P. 435, that the return is not complete till the writ, with the certificate endorsed, reaches the hands of the Clerk of the Crown, so that he may act on it. A member was elected for Poole on the 3rd of February. The writ, duly endorsed, was forwarded by post on the 4th to the General Post Office in London, where it arrived about 6 p.m. It was sent thence by special messenger to the Office of the Clerk of the Crown at Westminster, where it arrived between 8 and 9 p.m. The office being closed, the document was left with a servant of the housekeeper, and did not reach the Clerk of the Crown or any official till the morning of the 5th:—*Held*, that the twenty-one days for filing a petition under s. 6, sub-s. (2) of the Parliamentary Elections Act, 1868, reckoned from the 5th.

EXPENSES
OF ELEC-
TION.

As heretofore, the expenses of the election properly incurred will be payable by the candidates, it being enacted by s. 8 of the Ballot Act that they shall be

payable in the same manner as expenses incurred in the erection of polling-booths are by law payable, that is to say, in the manner directed by 2 Wm. 4, c. 45, s. 71, which provides that all poll-booths shall be erected at the joint expense of the several candidates. It may here be repeated that under the Ballot Act a necessity for erecting poll-booths can seldom arise; and the provisions of the above section respecting their erection by contract and the limitation of cost become therefore of comparatively little importance.

If any person is proposed without his consent, the proposer is, under the last-mentioned section, liable as if he had been himself a candidate (*a*).

The general law as to the payment of election expenses is contained in 26 & 27 Vict. c. 29. No payments (except in respect of the personal expenses of a candidate) are to be made by or on behalf of any candidate otherwise than through an agent, whose name and address must have been duly furnished to the returning officer, and published by him; and any person making any such payment otherwise than through such agent will be guilty of a misdemeanour (s. 2) (*b*). Election bills must be sent in to an agent (or to the candidate if through death or legal incapacity there is no agent) within one month after the election (s. 3).

Agents of
candidates
for ex-
penses.

By s. 4, the agents of candidates are required, within two months after the election, to deliver to the returning officer a detailed statement of all election expenses respectively incurred by the candidates, with

(*a*) See s. 2 of 38 & 39 Vict. c. 84, in App. I.

(*b*) In Scotland of an offence punishable with fine and imprisonment.

the bills and vouchers relative thereto; and it is made the duty of the returning officer, within fourteen days, to insert an abstract of each such statement, at the expense of the candidate, in a local newspaper. The returning officer is also to preserve the bills and vouchers delivered to him with the statements, and to permit any voter, within six months after their delivery, to inspect them, on payment of one shilling.

Provisions
of 38 & 39
Vict. c. 84,
as to
charges of
returning
officers,
and taking
security
from can-
didates.

Before the passing of the Parliamentary Elections (Returning Officers) Act, 1875 (38 & 39 Vict. c. 84), the returning officer was not entitled to demand from any candidate security for the estimated amount of the expenses of preparing for the poll. Therefore, where a returning officer declined to notice the nomination of one of two candidates on the ground that he would not accede to such demand, and returned the other candidate without adjourning for a poll, the return of the other candidate was, on a special case, declared void. *Davies v. Lord Kensington*, L. R. 9 C. P. 720.

But now the expenses and charges of returning officers are regulated by the last-mentioned Act, which has introduced material alterations of the law (a); and is to continue in force till December 31, 1880, the date assigned for the expiration of the Ballot Act, unless Parliament otherwise determine.

Section 2, together with the 1st schedule, lays down a scale of maximum charges to be made by returning officers, and declares that the amount of such charges shall be paid in equal shares, or, where there is only one candidate, by such candidate. If

(a) This Act does not extend to Scotland, nor to an election for any university or combination of universities.

a candidate is nominated without his consent, the subscribers of his nomination paper are expressly made jointly and severally liable for his share of the charges.

Section 3 empowers the returning officer to require security from the candidates for his charges, as authorised by the Act to be given according to the scale in the 3rd schedule ; the maximum being where the registered electors exceed 30,000, in the case of a county or district of contributory boroughs, £1000, and in the case of a borough, £700. The total amount of the security which may be required in respect of all the candidates is not to exceed the sums prescribed in the 3rd schedule, and is to be apportioned equally among all the candidates, if more than one. If, in the case of any candidate, security is not given within one hour after the two hours appointed for the election (Rule 4 in the 1st schedule to the Ballot Act) he will be deemed to be withdrawn. A tender of security in respect of a candidate may be made by any person, and security may be given by deposit of any legal tender or of notes of any bank being commonly current in the county or borough for which the election is held, or with the consent of the returning officer in any other manner. The balance (if any) of a deposit beyond the amount to which the returning officer is entitled in respect of any candidate, must be repaid to the person or persons by whom the deposit was made.

It is to be observed that whether the returning officer takes security or not, he is liable for the expenses of preparing for the poll, &c., in the first instance, and if he has not required any deposit, or if

the deposit proves insufficient, he must recover the deficiency from the candidates.

Accounts
of return-
ing officer.

By Section 4 the returning officer is required, within 21 days after making his return, to transmit to every candidate or other person from whom he claims payment, either out of any deposit or otherwise of any charges in respect of the election, a detailed account of such charges, showing also the share claimed from the person to whom the account is transmitted. The vouchers relating to these accounts are to be open to the inspection of, and may be copied by, the persons from whom payment is claimed or their agents; and the returning officer will not be entitled to any charges which are not duly included in his account.

If the person from whom payment is claimed objects to any part of the claim, he may, on application, in the City of London to the Lord Mayor's Court, and elsewhere in England to the County Court, obtain a taxation of the account by such Court or one of its principal officers.

The returning officer receives some protection under the provisions of section 5 that he shall not be liable in respect of anything (except for publication of accounts of election expenses) which is not stated in detailed particulars of claim transmitted to him within fourteen days after the return.

Where application is made to tax the accounts of a returning officer, he may apply to the Court to examine any claim transmitted to him in pursuance of this section, and the Court has jurisdiction to allow or disallow or reduce the claim objected to, with or without costs, and without appeal (s. 5).

In order that the mode of taking the poll prescribed by the Ballot Act may be effectually carried out, offences in respect of what may be called generally the election documents, and infringement of secrecy, are by ss. 3 and 4 of the Ballot Act visited with severe penalties. Any person who—

OFFENCES.
Infringe-
ment of
secrecy,
&c.

- (1) Forges, fraudulently defaces, or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper knowing the same to be forged; or
- (2) Forges or counterfeits, or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or
- (3) Without due authority supplies to any person a ballot paper; or
- (4) Fraudulently puts into a ballot-box a paper other than the ballot paper which he is authorised by law to put in; or
- (5) Fraudulently takes out of the polling station any ballot paper; or
- (6) Without due authority destroys, takes, opens, or otherwise interferes with any ballot-box or packet of ballot papers then in use for the purposes of the election,—

Will be guilty of a misdemeanour, and liable, if a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for two years with hard labour; if any other person, to six months' imprisonment with hard labour. An attempt to commit any of the above offences is punishable equally with the offence itself.

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot-

boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils (s. 3).

Besides certain specific provisions (a) against the infringement of secrecy, s. 4 contains a positive and general command to the officers, clerks, and agents in attendance, whether at a polling station or at the counting of the votes, to maintain and aid in maintaining secrecy, and any person acting in contravention of that section is liable on summary conviction to six months' imprisonment.

But for the misapprehension which seems to have existed, it would not have been worth while to mention that it is no offence in an elector to state for whom he intends to vote, or for whom he has voted, either in the polling station or out of it. It is an offence to attempt to obtain in the polling station any information as to how another person in such station intends to vote or has voted, or to communicate at any time to any person any information obtained in a polling station as to the vote of another person in such station.

Disorderly
conduct in
polling
station.

As to disorderly conduct in a polling station, any person misconducting himself in a polling station, or failing to obey the lawful orders of the presiding officer, may by s. 9 be summarily removed therefrom by order of the presiding officer, and debarred from entering again, and if charged with an offence in the station, may be kept in custody until he can be taken before a justice. The powers conferred by this

(a) *Supra*, p. 41.

section are not to be exercised so as to prevent an elector entitled to vote at a station from voting thereat, so that although it may be necessary to remove an elector before he has voted, an opportunity of voting subsequently must not be denied him.

The enactments relating to the punishment of personation have been already mentioned (a).

At common law a returning officer would be liable to a criminal information for acting corruptly in the execution of his office, and it does not seem that the jurisdiction of the House of Commons, which has been exercised on several occasions, is extinguished by the Parliamentary Elections Act, 1868 (31 & 32 Vict. c. 125). Moreover, various statutes at different times have imposed penalties on returning officers for malfeasance in their duties.

PENAL-
TIES ON
RETURN-
ING
OFFICER.
At com-
mon law.

By 7 & 8 Wm. 3, c. 25, s. 6, the returning officer is subject to a penalty of 500*l.* for any wilful offence against that Act.

By statute.

By 2 Wm. 4, c. 45, s. 76, a penalty of 500*l.* is imposed on any returning officer wilfully contravening the provisions of that Act, to be recovered by an elector, candidate, member actually returned, or other party aggrieved.

By 6 Vict. c. 18, s. 97, a penalty of 100*l.* is imposed upon returning and other officers for any wilful misfeasance, or wilful act of commission or omission contrary to that Act, to be recovered by the party aggrieved.

It is expressly provided with regard to the two last

(a) *Supra*, p. 48, *seq.*

provisions, that they shall not be construed to supersede any remedy or action against any returning officer according to the laws then in force.

By s. 48 of the Parliamentary Elections Act, 1868, if any returning officer wilfully delays, neglects, or refuses duly to return any person who ought to be returned to serve in Parliament for any county or borough, such person may, in case it has been determined on the hearing of an election petition under the Act, that such person was entitled to have been returned, sue the officer having so wilfully delayed, neglected or refused duly to make such return at his election in any of Her Majesty's Courts of Record at Westminster, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit; provided such action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial relating to such election.

And with respect to offences against the Ballot Act, s. 11 provides that every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of the Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds. This section clearly leaves untouched liability by the general law (a).

Procedure at Elections, is to be construed as one with the Representation of the People and Registration Acts in force for the time being, and with any other enactments otherwise relating to the subject matter of the said first part (s. 15). The third part, which treats of Personation, is, so far as regards Parliamentary elections, to be construed as one with the Parliamentary Elections Act, 1868 (s. 27).

THE BAL-
LOT ACT.
Construc-
tion.

The Schedules, with the notes and directions contained therein, are to have effect as part of the Act itself (s. 28), but there is a general saving clause (s. 13), to the effect that no election shall be declared invalid by reason of a non-compliance with the rules contained in the first Schedule, or any mistake in the use of the forms in the second Schedule (a), if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of the Act, and that such non-compliance or mistake did not affect the result of the election.

Saving as
to non-
com-
pliance
with rules.

Whether an election was conducted in accordance with the principles of the Act may, of course, be sometimes a question of extreme difficulty; but the section will prevent the raising of a swarm of small technical objections against the validity of elections.

Since the above paragraph was written the Court of Common Pleas have held, in the case of *Woodward v. Sarsons*, L. R. 10 C. P. 733, that to render an election void under the Ballot Act by reason of a non-observance of or non-compliance with the rules or forms given therein, such non-observance or non-

(a) These forms are to be used in all cases to which they apply, and are to be sufficient in law. (Note at beginning of Sched. II.)

compliance must be so great as to satisfy the tribunal before which the validity of the election is contested that the election has been conducted in a manner contrary to the principle of an election by ballot, and that the irregularities complained of did affect or might have affected the result of the election.

Universi-
ties.

The only portion of the Act that applies to Universities or combinations of Universities is Part III. respecting personation (ss. 27, 31).

Duration
of Act.

Lastly, s. 33 declares that the Act shall continue in force until December 31, 1880, and no longer, unless Parliament otherwise determine; and on that day the enactments repealed by the Act, and the old system of election procedure from which the country has parted, will, in default of such determination, be revived.

*Application of Ballot Act to Scotland, so far as regards
Parliamentary Elections.*

MODIFICA-
TIONS.

The provisions of the Ballot Act touching Parliamentary Elections, including those relating to personation, apply to Scotland, subject only to certain modifications, which are here enumerated (a).

Polling
districts.

(1) No change is made as to the division of counties and boroughs into polling districts, and the provisions relating thereto of section 5 have no application to Scotland (s. 16 (4)) (b).

Place of
election.

(2) The place of election is to be a convenient room in the town in which the writ for the election has been hitherto proclaimed (Rule 58).

(a) The Parliamentary Elections (Returning Officers) Act, 1875, does not apply to Scotland.

(b) See 2 & 3 Wm. 4, c. 65, s. 27; 16 & 17 Vict. c. 28.

(3) Personation is by s. 26 declared to be a crime and offence, and the rules of the law of Scotland with respect to apprehension, detention, precognition, commitment, and bail are applied thereto, and any person accused thereof may be tried in the court of justiciary, whether in Edinburgh or on circuit, at the instance of the Lord Advocate, or before the Sheriff Court, at the instance of the Procurator Fiscal. This is a material addition to the law, as personation is now for the first time made a statutable offence in Scotland, and personation agents may be appointed by the candidates (Rule 59).

Personation.

(4) The ballot-boxes and other requisites for the election are to be provided by the sheriff, and paid for by the candidates, as poll-booths were provided and paid for under the previous law (2 & 3 Wm. 4, c. 65, s. 40). The candidates are likewise to pay the reasonable remuneration of the staff employed by the returning officer, and all other expenses properly incurred by him, and by sheriffs' clerks and town clerks, in carrying into effect the provisions of the Act; but no presiding officer is to receive more than three guineas a day; no assistant to the returning officer more than two guineas a day, and no clerk more than one guinea a day for the performance of their respective duties. And, as formerly under 2 & 3 Wm. 4, c. 65, s. 40, if any person is proposed as a candidate without his consent, the person so proposing him will be liable to defray his share of the expenses as if he had been a candidate himself (s. 16 (5)).

Expenses.

(5) The return of the writ must as in England be made to the Clerk of the Crown in Chancery, but the

Return.

ballot papers and other documents required by the rules to be sent to that officer are, in Scotland, to be kept by the sheriff clerks of the respective counties in which the returns (including those for burghs) are made, and the sheriff clerk is for that purpose substituted for the Clerk of the Crown in Chancery (Rule 59).

Saving for
Orkney
and Shet-
land.

(6) The special regulations of 2 & 3 Wm. 4, c. 65 (ss. 30, 31), as to the fixing and announcement of the day of election, the interval between the receipt of the writ and the day of election, the period of adjournment for taking the poll in the case of Orkney and Shetland, and of the district burghs comprising Kirkwall, Wick, Dornock, Dingwall, Tain, and Cromarty, and to the keeping open of the poll for two consecutive days in the case of Orkney and Shetland are expressly saved (Rule 61).

Legal pro-
cedure and
defini-
tions.

(7) The expression "crime and offence" is substituted for "misdemeanour"; and offences under the Act punishable summarily are to be prosecuted before the sheriff under the Summary Procedure Act, 1864, for which purpose the necessary jurisdiction is conferred on sheriffs (s. 16 (1) and (2)).

The expression "sheriff" includes sheriff-substitute (s. 16 (3)).

"District borough" means the combined burghs and towns specified in Schedule E of 2 & 3 Wm. 4, c. 65, and in Schedule A of 31 & 32 Vict. c. 48 (Rule 60).

The only really important difference then made by the Ballot Act between England and Scotland is the omission, as regards the latter, of the enactment affecting polling districts; and, speaking generally,

parliamentary elections will be conducted in Scotland under the Act in the same manner in all respects as they are in England.

Application of the Ballot Act to Ireland as far as regards Parliamentary Elections.

Ireland is made subject to the provisions of the Ballot Act touching parliamentary elections (a) in the same manner as Scotland, but also with modifications. Of these, as in the case of Scotland, the most material relates to the polling districts; the enactments of section 5 being declared not to apply, and other provisions being substituted as to the constitution of polling districts and polling places in counties (b).

MODIFICATIONS.

(1) Under Section 18 the Lord Lieutenant in Council was to appoint special sessions to be holden by the chairman of quarter sessions and justices having jurisdiction in each county, or riding of a county, before the 1st of November next after the passing of the Act; and the chairman and justices assembled at the special sessions so appointed, or at some adjournment thereof, were directed to make an order before the 1st of December next ensuing, dividing the county or riding into polling districts, and appointing a polling place for each polling district (c). (Sub-sections (1)—(4).) So far as practicable, every sessions court-house is to be a

Polling districts.

(a) The Parliamentary Elections (Returning Officers) Act, 1875, applies to Ireland.

(b) The former provisions of 13 & 14 Vict. c. 68, s. 22, and of 25 & 26 Vict. c. 62, ss. 8—10, are repealed by the Act.

(c) As to the notice to be given to the chairman and justices by the clerk of the peace, see sub-sec. (3).

polling place(a); but where, in the opinion of the chairman and justices in special sessions, it would be desirable, for the purpose of affording full facilities for taking the poll, that there should be additional polling places, they are to appoint so many additional polling places as they think necessary, and constitute a polling district for each such polling place. (Sub-section(5).) Every order made under this section must specify the baronies, town lands, parishes, and places constituting each polling district, and a copy must be at once sent by the Clerk of the Peace to the Clerk of the Council, to be submitted for confirmation to the Lord Lieutenant in Council, without which confirmation no order is valid. The Clerk of the Council must give at least a month's notice of the intended confirmation of any order, by publishing such notice and the order itself in some newspaper circulating in the county or riding to which the order relates; and within a fortnight after such publication any person may lodge a written appeal against the confirmation with the Clerk of the Council. The Lord Lieutenant in Council may hear and determine any such appeal, and may make order as to the costs of the appeal; and whether an order is appealed against or not may confirm it as it stands, or with such variation as may seem fit. On the confirmation of an order, it is to be published once in the "Dublin Gazette" and once in the newspaper in which the notice of intended confirmation was published (sub-sections (6)—(10) (b).

(a) See sub-sec. (18), which provides for the adjournment of a petty sessions court fixed for the day appointed for the taking of the poll.

(b) By the Polling Districts (Ireland) Act, 1873, 36 & 37 Vict.

Where any new districts are constituted in any county under the authority of this section, the voters in such districts are to be ascertained, and separate lists of such voters made (subject, in the case of their first formation, to the modifications contained in 36 & 37 Vict. c. 2, s. 2) in the same manner as is provided by 27 & 28 Vict. c. 22, s. 9, *sqq.*, with respect to the new districts mentioned in that section; and the register in force in such county at the date of the confirmation of any order relating to such county, as amended by the printed books given into the custody of the sheriff under s. 12 of that Act, and the said printed books will be the register for the purposes of any election until the 1st of January next after the delivery of those books to the sheriff. In the case of an election for a county held after the confirmation of an order relating to such county, but before the formation of the register in accordance with the provisions of this section, the poll will be taken as if no order had been made. All precepts, &c., relating to the registration of voters are to be in such form as may be necessary for carrying out the provisions of the Act (sub-ss. (11)—(13)).

Power is also given to the chairman and justices assembled at general or quarter sessions for any division of a county or riding, if in their judgment additional polling places are necessary, to appoint such

c. 2, s. 1, the notice of the intended confirmation required by subsection (8), and publication of the order itself in the *Dublin Gazette* in the case of the first constitution of districts is dispensed with, but notice of the making and confirming of the order must be published in the *Gazette*.

polling places and constitute polling districts for them, by order to be made and confirmed in the manner above described (sub-ss. (14)—(16)).

No election can be questioned by reason of a district not having been constituted in conformity with the above enactments, or any informality in relation to a polling district (sub-s. (17)) (a).

Restric-
tion on
taking
school-
room com-
pulsorily.

(2) The power of taking compulsorily a room in a school receiving a parliamentary grant for the purpose of taking the poll (s. 6) is not to be exercised in the case of any school adjoining any place of worship, nor in the case of a school connected with a nunnery or other religious establishment, s. 17 (3).

Voting in
wards in
certain
boroughs.

(3) Section 19 contains an amendment of the law with respect to the voting of electors whose qualifications are not situate in any one ward, in Belfast, Cork, Dublin, Limerick, and Waterford. (*See* 13 & 14 Vict. c. 68, s. 7.) The section is itself amended by 36 & 37 Vict. c. 20, s. 4.

Expenses
of polling
stations.

(4) A returning officer will not be entitled henceforth to claim for the expenses of polling stations anything further than the sums actually disbursed by him, and these must not exceed the sums now allowed by statute (b) (s. 17 (4)).

Presiding
officer
need not
be free-
holder.
"Clerk of
Crown."

(5) A presiding officer at a polling station in a county need not be a freeholder of the county (Rule 63).

The expression "Clerk of the Crown in Chancery" means the Clerk of the Crown and Hanaper in Ireland (s. 17 (1)).

(a) *See* also The Registration of Voters (Ireland) Act, 1873, 36 & 37 Vict. c. 30.

(b) *3l.* for each booth, if in a public building; *5l.* if not. 13 & 14 Vict. c. 68, s. 19, and *see* 38 & 39 Vict. c. 84, Sched. I.

In the construction of s. 11 of the Act, s. 13 of 31 & 32 Vict. c. 49 (the Irish Reform Act) must be substituted for s. 50 of 30 & 31 Vict. c. 102 (the English Reform Act) : the enactments are the same.

Construc-
tion of
s. 11.

CHAPTER II.

PROCEDURE AT MUNICIPAL ELECTIONS.

EXTENT
OF ALTER-
ATION OF
LAW.

THE law with regard to Municipal Elections (*a*) is unaltered by the Ballot Act, save so far as relates (1) to the mode of taking the poll where an election is contested, (2) to the form of nomination paper (*b*).

In the session of 1875, however, the Municipal Elections Act, 1875 (38 & 39 Vict. c. 40) (*c*), repealed the enactments of the Municipal Corporation Act, 1859 (22 Vict. c. 35) and of the Ballot Act relating to nomination at Municipal Elections, and made new and detailed provisions in lieu thereof, besides amending the law as to polling and the division of wards into polling districts.

It will therefore be convenient to consider the two Acts together, and to state their combined result.

Returning
officer.

First, as to the returning officer. The returning officer at a Municipal Election is the mayor or other officer who, under the law relating to Municipal Elections, presides at such elections, and it will be the duty of the mayor in all cases to make the provisions for a poll which a returning officer in the case of a Parliamentary Election is required to make (s. 20) (3).

(*a*) By s. 29 "Municipal Election" means an election of any person to serve the office of councillor, auditor, or assessor of any municipal borough, or of councillor for a ward of a municipal borough; and "Municipal Borough" means any place for the time being subject to the Municipal Corporation Acts, *i.e.*, 5 & 6 Wm. 4, c. 76, and the Acts amending the same.

(*b*) The personation provisions apply to Municipal Elections, s. 24.

(*c*) See the Act printed in Appendix I.

Section 3 of the Municipal Elections Act, 1875, enacts that the power of making such provision "shall (save "as to the appointment of the alderman as returning "officer for any ward) extend to the appointment of "officers for taking the poll and counting the votes "recorded at such election."

In a borough divided into wards, an alderman is the presiding officer in each ward (5 & 6 Wm. 4, c. 76, s. 43); and the returning officer will only have to appoint clerks. In other respects his preparations will be as a rule less extensive than in the case of a Parliamentary Election; but, of course, in every case the complete apparatus for taking the poll must be in readiness, though it may be on a small scale.

Preparations of returning officer.

The provisions of rules 16 and 19 in Schedule I. to the Ballot Act, requiring at least one compartment to be provided for every 150 electors entitled to vote at a polling station, and requiring public notice of the situation of polling stations and other particulars to be given by the returning officer, are declared by s. 4 of the Municipal Elections Act, 1875, not to apply to Municipal Elections; and in lieu thereof, it is provided that the mayor shall furnish each station with such number of compartments, and each presiding officer with such number of ballot papers, as in the opinion of the mayor are necessary for effectually taking the poll (a).

Where more candidates are nominated than there are vacancies, the mayor must, at least four days be-

(a) By s. 10 of the Municipal Elections Act the town council have power to divide their borough or any ward into polling districts, and the lists of burgesses are, so far as practicable, to be made out in conformity with such districts.

fore the day of election, give "such public notice as "may be required by law" (*a*) of the situation, division and allotment of polling places, and of the description of persons entitled to vote thereat, and at the several polling stations. *Ib.*

It is not quite clear how this public notice should be given, and the words "thereat and" at the end of the section appear to be surplusage.

The election may now be held before the returning officer alone, the ward assessors formerly elected under 5 & 6 Wm. 4, c. 76, ss. 43, *sqq.*, being abolished, and the enactments relating to them repealed (s. 21). The prohibition of a returning officer's giving an original vote, contained in section 2 of the Ballot Act, is declared not to extend to Municipal Election (s. 20 (7)) (*b*).

Notice of election.

By section 1 of the Municipal Elections Act, 1875, the town clerk is required to give at least nine days' notice of a Municipal Election, by placing notices in the form given in the first schedule to the Act on the door of the Town Hall, and in other conspicuous parts of the borough or ward for which the election is held.

Form of nomination paper.

The Ballot Act directed that the form of nomination paper should be as nearly as possible the same as in the case of a Parliamentary Election [*note to form of nomination paper in Schedule II.*] instead of the form prescribed by 22 Vict. c. 35. It would appear

(*a*) See s. 33 of 5 & 6 Wm. 4, c. 76.

(*b*) By s. 35 of 5 & 6 Wm. 4, c. 76, in the case of an equality of votes between two or more persons at an election for councillors "the "mayor [and assessors, or any two of them] shall name from amongst "those persons, for whom the number of votes shall be equal, so "many shall be necessary to complete the requisite number of persons to be chosen."

that this direction applied only to the mode of printing the paper, and did not require the nomination to be subscribed by eight persons on the burgess list or ward list as assenting to the nomination.

Now, however, these directions are repealed, and the law of nomination at Municipal Elections is assimilated to that at Parliamentary Elections by section 1 of the Municipal Elections Act, 1875 (*a*), and the nomination must be subscribed by eight enrolled burgesses of the borough or ward, in addition to the proposer and seconder (s. 1.).

By section 5 any person whose name is on the burgess roll or ward list (as the case may be) and no other, is entitled to sign or subscribe a nomination paper. A form of nomination paper is given in Schedule II. to the Act: the town clerk is bound to supply any burgess with as many as he may require, and if requested, to fill any paper up in manner prescribed by the Act, but a form to the like effect may be used.

Nomination papers subscribed as aforesaid must be delivered by the candidate himself, or his proposer or seconder, to the town clerk, seven days at least before the day of election, and before five o'clock in the afternoon of the last day appointed for their delivery; and the town clerk must forthwith send notice of his nomination to each person nominated (*b*).

It is the duty of the mayor to attend at the Town Hall on the day next after the last day for the delivery

Delivery
of nomi-
nation
papers.

Objec-
tions.

(a) See s. 1 of the Ballot Act, and rules 5—8, 11—13.

(b) Delivery by an agent of the candidate has been held insufficient. *Re Wigan Municipal Election*, L. J. Notes of Cases, 160, 22nd July, 1876.

of nominations between the hours of two and four in the afternoon; and to decide on the validity of objections made to nomination papers. All objections must be made in writing.

The candidates, and one other person appointed by each candidate, are the only persons entitled, except for the purpose of assisting the mayor, to attend the proceedings, and each candidate and the person appointed by him, during the time appointed for the attendance of the mayor, have respectively power to object to the nomination paper of every person nominated at the same election.

The decision of the mayor must be given in writing, and, if disallowing any objection to a nomination paper, is final, but if allowing the same is subject to reversal on petition questioning the election or return. The appointment by or on behalf of candidates of persons as aforesaid must be made in writing under the hand of the candidate, or, in case he is absent from the United Kingdom, under the hand of his proposer or seconder, and must be delivered to the town clerk before five o'clock in the afternoon of the last day for the delivery of nomination papers.

Notice of
persons
nominated.

At least four days before the day of election the town clerk must cause the names of all persons duly nominated, with their respective places of abode and descriptions, and the names of their respective proposers and seconders, to be printed and placed on the door of the Town Hall, and in some conspicuous parts of the borough or ward for which the election is to be held (sub-s. (3)).

Section 8 of the Municipal Corporation Act, 1859, (22 Vict. c. 35), so far as it is now in force, is declared

to apply to nominations of councillors, auditors, and assessors.

This section is as follows :

“ At any election of councillors to be held for any borough or ward :

“ (1.) If the number of persons so nominated shall exceed the number to be elected, the councillors to be elected shall be elected from the persons so nominated, and from them only :

Provisions
as to
election of
council-
lors,
22 Vict.
c. 35, s. 8.

“ (2.) If the number of persons so nominated shall be the same as the number to be elected, such persons shall be deemed to be elected ; and the mayor or alderman [*and two assessors*] (a), as the case may be, shall publish a list of the names of the persons so elected, not later than eleven of the clock in the morning of the said day of election :

“ (3.) If the number of persons so nominated shall be less than the number to be elected, such persons shall be deemed to be elected : such of the retiring councillors highest on the poll at their election, or, if the poll were equal, or there were no poll, such as shall be nominated by the mayor, shall be deemed to be re-elected to make up the number required to be elected ; and the mayor or alderman [*and two assessors*], as the case may be, shall publish a list of the names of all the persons so elected respectively, not later than eleven of the clock in the morning of the said day of election :

“ (4.) If no persons be so nominated, the retiring

(a) The Ballot Act repealed so much of this section as relates to assessors.

“councillors shall be deemed to be re-elected,
 “and the mayor or alderman [*and two assessors*],
 “as the case may be, shall publish a list of the
 “names of all the persons so elected, not later
 “than eleven of the clock in the morning of the
 “said day of election.”

Applica-
 tion of s. 3
 of Ballot
 Act.

It is further declared that section 3 of the Ballot Act, relating to offences in respect of nomination papers, &c., shall apply to municipal nomination papers, and that “so applied, the word returning “officer shall be taken to include town clerk, in reference to the delivery of such nomination papers” sub-s. (5).

The remainder of section 3 of the Ballot Act, relating to offences in respect of ballot boxes, ballot papers, &c., of course applies to Municipal Elections by virtue of the general words of section 20 of the Ballot Act.

Section 2 of the Municipal Elections Act provides that the nomination of a person who is absent from the United Kingdom shall be void unless his written consent, given within one month of the day of his nomination, before two witnesses, is produced at the time of his nomination. The intention, it is presumed, is, that this consent should be shown to the town clerk when the nomination paper is delivered to him. The effect of the enactment seems to be that a candidate only has to go over to Boulogne to defeat the provisions of sec. 7, *infra*.

With-
 drawal of
 candi-
 dates.

It will be recollected that any candidate at a Parliamentary Election may, under section 1 of the Ballot Act, withdraw from his candidature during the time pointed for the election.

In this respect the Municipal Elections Act differs from the Ballot Act, and section 7 provides that "where more candidates are nominated at any Municipal Election than there are vacancies to be filled at such election, any of such candidates may withdraw from his candidature by notice signed by him and delivered to the town clerk not later than two o'clock in the afternoon of the day next after the last day for the delivery of nomination papers to the town clerk; provided that such notices shall take effect in the order in which they are delivered to the town clerk, and that no such notice shall have effect so as to reduce the number of candidates ultimately standing nominated below the number of the vacancies to be filled."

It appears, therefore, that a candidate at a Municipal Election can only withdraw where more candidates are nominated than there are vacancies to be filled, and cannot withdraw if his withdrawal would reduce the number of candidates below the number of vacancies; see, however, s. 2, *supra*.

The day of the poll is not altered, and there is no power to take a school room or public room compulsorily for the purpose of taking the poll (s. 20 (7)).

Time and
place of
election.

The expression "register of voters" means the burgess roll of the burgesses of the borough, or in the case of an election for the ward of a borough, the ward list, and the mayor must provide true copies for every polling station (Rule 64), but the provisions of section 7, as to the conclusiveness of the register, are declared not to apply in the case of any Municipal Election (s. 20 (7)).

Register.

Here again the Municipal Elections Act has brought the law into conformity with that of Parliamentary Elections, by enacting (s. 5) that every person whose name is on the burgess roll or ward list, as the case may be, shall be entitled to demand and receive a ballot paper, and to vote; with the proviso that nothing in the section shall entitle any person to do so who is prohibited from so doing by law, or relieve him from any penalties to which he may be liable for so doing.

It is to be observed, however, that the register had already been made conclusive in the case of a Municipal Election, as in the case of a Parliamentary Election, by s. 10 of the Corrupt Practices (Municipal Elections) Act, 1872 (*a*).

Agents.

Section 20 of the Ballot Act also enacts that nothing in the Act shall be deemed to authorise the appointment of agents; but if a candidate does appoint an agent, and gives written notice of his appointment to the returning officer, the provisions of the Act with respect to agents are to apply to such agent.

The Municipal Corporation Acts contain no enactment as to agents, but under this section either "personation" or "counting" agents can be appointed.

Inter-
change of
fittings,
&c., at
parlia-
mentary
and
municipal
elections.

Where a parliamentary borough and a municipal borough are to any extent coincident in area, ballot boxes and fittings for polling stations and compartments provided for Parliamentary Elections for the former, may be used free of charge for Municipal Elections for the latter, and *vice versa*: any damage, other than reasonable wear and tear, being paid as

(a) 37 & 38 Vict. c. 60.

part of the expenses of the election at which they are used (s. 14); *i. e.*, in the one case by the candidates, in the other out of the borough fund.

One or two provisions of the Municipal Elections Act, 1875, remain to be noticed.

At the poll at any election of auditors and assessors one ballot paper only is to be used by any voter. In such ballot paper the names of the candidates for the respective offices must be inserted separately, and distinguished so as to show the office for which they are respectively candidates, and the ballot paper must be in the form given in the First Schedule to the Act, or to the like effect, and the provisions of the Ballot Act are at any such election to be altered and varied accordingly. It is however provided, that in counting the votes every such ballot paper shall be deemed to be a separate ballot paper in respect of each office, and any objections thereto shall be considered and dealt with accordingly (s. 6).

One poll to be taken for auditors and assessors.

By s. 11 of 16 & 17 Vict. c. 79, if any extraordinary vacancy happens in the office of councillor, auditor, or assessor, the election to supply such vacancy is required to be held not later than *ten* days after notice has been given to the mayor or town clerk by any two burgesses.

Section 9 of the Municipal Elections Act substitutes the period of *fourteen* for the period of *ten* days, and enacts that the day for holding the election in the case of any such extraordinary vacancy shall be fixed by the mayor, whether the borough is divided into wards or not.

With regard to notices at Municipal Elections, *Notices.* section 8 of the Municipal Elections Act provides

that any notice required to be given or published by the mayor or other returning officer, or town clerk, in connexion with any Municipal Election may, as to auditors and assessors, be comprised in one notice ; and with respect to the election of councillors in any borough divided into wards, may comprise the matter necessary to such notice for the several wards, and that it shall not be necessary to issue a separate notice for each ward.

Expenses. All the expenses of Municipal Elections will be defrayed as the expenses mentioned in s. 92 of 5 & 6 Wm. 4, c. 76, are defrayed ; *i. e.*, out of the borough fund (s. 20 (4)).

Return. No return is required to be made to the Clerk of the Crown in Chancery (s. 20 (5)).

Disposal of election documents. All the ballot papers and other election documents, which in the case of a Parliamentary Election are forwarded to him, are to be delivered to the town clerk and kept by him among the records of the borough. The provisions with respect to the inspection, production, and destruction, and with respect to the copies of election documents in the case of a Parliamentary Election, will apply to Municipal Election documents in the custody of the town clerk. The order of a County Court, or of any tribunal in which a Municipal Election is questioned, is, however, substituted for an order of the House of Commons, or of a Superior Court, with power to appeal, as in ordinary County Court cases ; and the regulations for the inspection of documents and the fees for the supply of copies of those of which copies are directed to be *supplied*, will be prescribed by the Town Council,

with the consent of the Home Secretary. Subject as aforesaid, the Council have a general control over the documents in the hands of the town clerk (Rule 64).

*Application of Ballot Act to Scotland, so far as regards
Municipal Elections.*

In Scotland the form of nomination papers, so far as circumstances admit, and the mode of taking the poll at a Municipal Election, will be the same under the Act as in the case of a Parliamentary Election (a), subject (*mutatis mutandis*) to such modifications as are laid down by the Ballot Act in the case of England (*see* s. 22, rule 65). The Municipal Elections Act, 1875, does not apply to Scotland, and the law remains otherwise unaltered, save that the mode of conducting Municipal Elections is rendered uniform by sub-section (2) of section 22, which enacts that all Municipal Elections shall be conducted in the same manner as elections of councillors in the royal burghs mentioned in Schedule C to 3 & 4 Wm. 4, c. 76. The effect of this enactment is to supersede henceforth the special provisions as to nomination in burghs other than the above mentioned, under the Municipal Corporation Acts. It is to be remembered that the provisions contained in s. 9 of 31 & 32 Vict. c. 108, remain in force, amended only by the requirements of the Ballot Act as to the *form* of the nomination paper.

(a) As regards Scotland "Municipal Election" means under s. 29 an election of any person to serve the office of councillor or commissioner of any municipal borough, or of a ward or district of any municipal borough: and "Municipal Borough" means any place subject to 3 & 4 Wm. 4, cc. 76, 77; 13 & 14 Vict. c. 33, 25 & 26 Vict. c. 101, and any Acts amending the same.

*Application of Ballot Act to Ireland so far as regards
Municipal Elections.*

What has been said respecting the form of nomination paper and mode of taking the poll at Municipal Elections in Scotland applies also to Municipal Elections in Ireland (*a*) (*see* s. 23, rule 66). The only other alteration of the law that requires notice is that the mode of nomination is to be the same as the mode of nomination in English boroughs under the Municipal Corporation Act, 1859 (22 Vict. c. 35), and the following provisions of that Act, namely ss. 5 and 6, s. 7 (except so much as relates to the form of nomination papers), and s. 8 (except so much as relates to assessors), are accordingly extended to every municipal borough in Ireland, and will supersede henceforth any provisions in force in relation to the nomination at Municipal Elections (s. 23).

The above-mentioned provisions of the Municipal Corporation Act, 1859, are repealed without any qualification by the Municipal Elections Act, 1875, but though the Act itself is silent on the point, it would appear that it does not extend to Ireland, and that the repeal does not affect the application by the Ballot Act of those provisions to municipal boroughs in Ireland.

(*a*) As regards Ireland, "Municipal Election" means under s. 29 an election of any person to serve the office of alderman, councillor, commissioner, municipal commissioner, town commissioner, township commissioner, or assessor of any municipal borough. And "Municipal Borough" means any place subject to 3 & 4 Vict. c. 108; 9 Geo. 4, c. 82; the Towns Improvement (Ireland) Act, 1854, and every local and personal Act providing for the election of commissioners in any towns or places for purposes similar to the purpose of the said Acts.

APPENDICES.



APPENDIX I.

35 & 36 VICT. c. 33.

An Act to amend the Law relating to Procedure at Parliamentary and Municipal Elections (a). [18th July, 1872.]

WHEREAS it is expedient to amend the law relating to procedure at Parliamentary and Municipal Elections :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PART I.

PARLIAMENTARY ELECTIONS.

Procedure at Elections.

I. A candidate for election to serve in Parliament for a county or borough shall be nominated in writing. The writing shall be subscribed by two registered electors of such county or borough as proposer and seconder, and by eight other registered electors of the same county or borough as assenting to the nomination, and shall be delivered during the time appointed for the election to the returning officer by the candidate himself, or his proposer or seconder.

Nomina-
tion of
candidates
for parlia-
mentary
elections.

p. 13. (b.)

Form of nomination paper, Sched. II.

(a) It has not been thought necessary to print the schedules of repealed Acts, which extend to considerable length.

(b) The marginal references are to the pages of the Introduction.

p. 16. If at the expiration of one hour after the time appointed for the election no more candidates stand nominated than there are vacancies to be filled up, the returning officer shall forthwith declare the candidates who may stand nominated to be elected, and return their names to the Clerk of the Crown in Chancery; but if at the expiration of such hour more candidates stand nominated than there are vacancies to be filled up, the returning officer shall adjourn the election and shall take a poll in manner in this Act mentioned.

p. 14. A candidate may, during the time appointed for the election, but not afterwards, withdraw from his candidature by giving a notice to that effect, signed by him, to the returning officer: Provided, that the proposer of a candidate nominated in his absence out of the United Kingdom may withdraw such candidate by a written notice signed by him and delivered to the returning officer, together with a written declaration of such absence of the candidate.

As to withdrawal of candidate at a municipal election, *see* 38 & 39 Vict. c. 40, s. 7, *supra*, p. 90.

p. 18. If after the adjournment of an election by the returning officer for the purpose of taking a poll one of the candidates nominated shall die before the poll has commenced, the returning officer shall, upon being satisfied of the fact of such death, countermand notice of the poll, and all the proceedings with reference to the election shall be commenced afresh in all respects as if the writ had been received by the returning officer on the day on which proof was given to him of such death; provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermand of the poll.

Poll at elections.
p. 28. II. In the case of a poll at an election the votes shall be given by ballot. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached

a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called the "presiding officer") after having shown to him the official mark at the back. p. 27.

Form of ballot paper, Sched. II.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted. p. 58.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given, and return their names to the Clerk of the Crown in Chancery. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return. p. 54.

Where an equality of votes is found to exist between any candidates at an election for a county or borough, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer, if a registered elector of such county or borough, may give such additional vote, but shall not in any other p. 61.

case be entitled to vote at an election for which he is returning officer.

Offences at Elections.

Offences in
respect of
nomina-
tion
papers,
ballot
papers,
and ballot
boxes.
p. 71.

III. Every person who,—

- (1.) Forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged ; or
- (2.) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper ; or
- (3.) Without due authority supplies any ballot paper to any person ; or
- (4.) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in ; or
- (5.) Fraudulently takes out of the polling station any ballot paper ; or
- (6.) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election ;

shall be guilty of a misdemeanor, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

IV. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to every voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Infringe-
ment of
secrecy.

p. 72.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

Amendment of Law.

V. The local authority (as hereinafter defined) of every county shall by order, as soon as may be prac-

Division of
counties

and
boroughs
into
polling
districts.
p. 18.

licable after the passing of this Act, divide such county into polling districts, and assign a polling place to each district, in such manner that, so far as is reasonably practicable, every elector resident in the county shall have a polling place within a distance not exceeding four miles from his residence, so, nevertheless, that a polling district need not in any case be constituted containing less than one hundred registered electors.

The local authority (as hereinafter defined) of every borough shall take into consideration the division of such borough into polling districts, and, if they think it desirable, by order, divide such borough into polling districts in such manner as they may think most convenient for taking the votes of the electors at a poll.

The local authority of every county and borough shall, on or before the first day of May one thousand eight hundred and seventy-three, send to one of Her Majesty's Principal Secretaries of State, to be laid by him before both Houses of Parliament, a copy of any order made by such authority in pursuance of this section, and a report, in such form as he may require, stating how far the provisions of this Act with respect to polling districts have been complied with in their county or borough; and if they make any order after the first day of May one thousand eight hundred and seventy-three, with respect to polling districts or polling places in their county or borough, they shall send a copy of such order to the said Secretary of State, to be laid by him before both Houses of Parliament.

The local authority of a county or borough in this section means the authority having power to divide such county or borough into polling districts under section thirty-four of "The Representation of the People Act, 1867," and any enactments amending that section; and such authority shall exercise the powers thereby given to them for the purposes of this section; and the provisions of the said section as to the local authority of a borough constituted by the combination of *two or more* municipal boroughs shall apply to a

borough constituted by the combination of a municipal borough and other places, whether municipal boroughs or not ; and in the case of a borough of which a town council is not the local authority, and which is not wholly situate within one petty sessional division, the justices of the peace for the county in which such borough or the larger part thereof in area is situate, assembled at some court of general or quarter sessions, or at some adjournment thereof, shall be the local authority thereof, and shall for this purpose have jurisdiction over the whole of such borough ; and in the case of such borough and of a county, a court of general sessions shall be assembled within twenty-one days after the passing of this Act, and any such court may be assembled and adjourned from time to time for the purpose.

No election shall be questioned by reason of any noncompliance with this section or any informality relative to polling districts or polling places, and any order made by a local authority in relation to polling districts or polling places shall apply only to lists of voters made subsequently to its date, and to registers of voters formed out of such lists, and to elections held after the time at which a register of voters so formed has come into force : Provided that where any such order is made between the first day of July and the first day of November in any year, and does not create any new division between two or more polling districts of any parish for which a separate poor rate is or can be made, such order shall apply to the register of voters which comes into force next after such order is made, and to elections held after that register so comes into force ; and the clerk of the peace or town clerk, as the case may be, shall copy, print, and arrange the lists of voters for the purpose of such register in accordance with such order.

VI. The returning officer at a parliamentary election may use, free of charge, for the purpose of taking the poll at such election, any room in a school receiving a grant out of moneys provided by Parliament, and

Use of
school and
public
room for
poll.
p. 24.

any room the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of its being used for the purpose of taking the poll as aforesaid.

The use of any room in an unoccupied house for the purpose of taking the poll shall not render any person liable to be rated or to pay any rate for such house.

Conclu-
siveness of
register of
voters.

p. 34.

VII. At any election for a county or borough, a person shall not be entitled to vote unless his name is on the register of voters for the time being in force for such county or borough, and every person whose name is on such register shall be entitled to demand and receive a ballot paper and to vote: Provided that nothing in this section shall entitle any person to vote who is prohibited from voting by any statute, or by the common law of Parliament, or relieve such person from any penalties to which he may be liable for voting.

General
powers
and duties
of return-
ing officer.
p. 23.

Duties of Returning and Election Officers.

VIII. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of voters, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting an election in manner provided by this Act.

p. 67.

All expenses properly incurred by any returning officer in carrying into effect the provisions of this Act, in the case of any parliamentary election, shall be payable in the same manner as expenses incurred in the erection of polling booths at such election are by law payable.

p. 7.

Where the sheriff is returning officer for more than *one county as defined for the purposes of parliament-*

any elections, he may, without prejudice to any other power, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to an election in any such county, and may, by himself or such deputy, exercise any powers and do any things which the returning officer is authorised or required to exercise or do in relation to such election. Every such deputy, and also any under sheriff, shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer in the provisions of this Act relating to parliamentary elections, and the enactments with which this part of this Act is to be construed as one.

IX. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorised in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

X. For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, a presiding officer shall have the power by law belonging to a deputy returning officer; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorised by law to be asked of and administered to voters, and any justice of the peace and any returning

Keeping of
order in
station.
p. 31.

Powers of
presiding
officer and
adminis-
tration of
oaths, &c.
p. 38.

officer may take and receive any declaration authorised by this Act to be taken before him.

Liability
of officers
for mis-
conduct.

p. 74.

XI. Every returning officer, presiding officer, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds.

30 & 31
Vict. c.
102.

Section fifty of "The Representation of the People Act, 1867," (which relates to the acting of any returning officer, or his partner or clerk, as agent for a candidate,) shall apply to any returning officer or officer appointed by him in pursuance of this Act, and to his partner or clerk.

Miscellaneous.

Prohibition
of disclosure
of vote.

Non-compliance
with rules.

p. 75.

XII. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

XIII. No election shall be declared invalid by reason of a non-compliance with the rules contained in the First Schedule to this Act, or any mistake in the use of the forms in the Second Schedule to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Act, and that such non-compliance or mistake did not affect the result of the election.

See Stowe v. Jolliffe, L. R. 9 C. P. 734.

Use of
municipal
ballot
boxes, &c.,
for parliamentary
election,
and vice
versâ.

p. 27.

XIV. Where a parliamentary borough and municipal borough occupy the whole or any part of the same area, any ballot boxes or fittings for polling stations and compartments provided for such parliamentary borough or such municipal borough may be used in any municipal or parliamentary election in such borough free of charge, and any damage other than reasonable wear and tear caused to the same shall be paid as part of the expenses of the election at which they are so used.

See s. 6 of 38 & 39 Vict. c. 84, infra.

XV. This part of the Act (*a*) shall, so far as is consistent with the tenor thereof, be construed as one with the enactments for the time being in force relating to the representation of the people, and to the registration of persons entitled to vote at the election of members to serve in Parliament, and with any enactments otherwise relating to the subject matter of this part of this Act, and terms used in this part of this Act shall have the same meaning as in the said enactments; and in construing the said enactments relating to an election or to the poll or taking the votes by poll, the mode of election and of taking the poll established by this Act shall for the purposes of the said enactments be deemed to be substituted for the mode of election or poll, or taking the votes by poll, referred to in the said enactments; and any person applying for a ballot paper under this Act shall be deemed "to tender his vote," or "to assume to vote," within the meaning of the said enactments; and any application for a ballot paper under this Act, or expressions relative thereto, shall be equivalent to "voting" in the said enactments and any expressions relative thereto; and the term "polling booth" as used in the said enactments shall be deemed to include a polling station; and the term "proclamation" as used in the said enactments shall be deemed to include a public notice given in pursuance of this Act.

Construc-
tion of Act.
p. 75.

Application of Part of Act to Scotland.

XVI. This part of this Act shall apply to Scotland, subject to the following provisions:—

- (1.) The expression "crime and offence" shall be equivalent to the expression "misdemeanor," and shall be substituted therefor:
- (2.) All offences under this Act for which any person may be punished on summary conviction shall be prosecuted before the sheriff under the provisions of "The Summary Procedure Act, 1864;" and all jurisdictions,

Alterations for application of Part I. to Scotland.
p. 76.

(a) See 38 & 39 Vict. c. 84, s. 6, and p. 75, *supra*.

powers, and authorities necessary for that purpose are hereby conferred on sheriffs :

- (3.) The expression "sheriff" shall include sheriff substitute :
- (4.) The provisions of this Act relating to the division of counties and boroughs into polling districts shall not apply to Scotland :
- (5.) The ballot-boxes, ballot-papers, stamping instruments, and other requisites for a parliamentary election shall be provided and paid for in the same manner as polling-rooms or booths under the fortieth section of the Act of the second and third years of the reign of King William the Fourth, chapter sixty-five, intituled "An Act to amend the Representation of the People in Scotland ;" and the reasonable remuneration of presiding officers, assistants, and clerks employed by the returning officer at such an election, and all other expenses properly incurred by the returning officer, and by sheriff clerks and town clerks, in carrying into effect the provisions of this Act, shall be paid by the candidates ; provided always, that if any person shall be proposed as a candidate without his consent the person so proposing him shall be liable to defray his share of all those expenses in like manner as if he had been a candidate himself ; provided also, that the fee to be paid to each presiding officer shall in no case exceed the sum of three guineas per day, and the fee to be paid to each assistant to the returning officer shall not exceed two guineas per day, and the fee to be paid to each clerk shall not exceed one guinea per day.

Application of Part of Act to Ireland.

XVII. This part of this Act shall apply to Ireland, subject to the following modifications :—

- (1.) The expression "Clerk of the Crown in Chan-

Alterations for
application of

cery" shall mean the Clerk of the Crown and Hanaper in Ireland: Part I. to Ireland.

- (2.) The preceding provisions of this part of this Act with respect to the division of counties and boroughs into polling districts shall not extend to Ireland: p. 79.
- (3.) In the construction of the preceding provisions of this part of this Act as applying to Ireland, section thirteen of "The Representation of the People (Ireland) Act, 1868," shall be substituted for section fifty of "The Representation of the People Act, 1867," wherever in such provisions the said last-mentioned section occurs. The provision contained in the sixth section of this Act providing for the use of school rooms free of charge, for the purpose of taking the poll at elections, shall not apply to any school adjoining or adjacent to any church or other place of worship, nor to any school connected with a nunnery or other religious establishment:
- (4.) No returning officer shall be entitled to claim, or be paid, any sum or sums of money for the erection of polling booths or stations and compartments other than the sum or sums actually and necessarily incurred and paid by him in reference to the same, any statute or statutes to the contrary now in force notwithstanding, nor shall the expenses of providing sufficient polling stations or booths and compartments at every polling place exceed the sum or sums now given and allowed by statute in Ireland.

XVIII. With respect to polling districts and polling places in Ireland, the following regulations shall have effect; that is to say, Provisions as to polling districts and polling places in Ireland.

- (1.) The Lord Lieutenant, by and with the advice of the Privy Council in Ireland, shall appoint special sessions to be held by the chairman of quarter sessions and justices of the peace having jurisdiction in each county or riding of p. 79.

a county in Ireland, at such places and times before the first day of November next after the passing of this Act as shall seem fit for the purpose of dividing such county or riding into polling districts and appointing polling places for such districts :

- (2.) The clerk of the said Privy Council shall cause each such appointment to be notified to the clerk of the peace of the county to which the same relates, and shall cause notice of the same to be published twice in each of two consecutive weeks in one or more newspapers usually circulated in such county, and once in the Dublin Gazette :
- (3.) The clerk of the peace of each county in Ireland shall, within five days after the receipt of such notification as aforesaid, send a written or printed notice of the same to the chairman and to every justice of the peace having jurisdiction within the county or riding to which the same relates :
- (4.) The chairman of quarter sessions and the justices of the peace having jurisdiction in any county or riding assembled at such special sessions appointed in manner aforesaid, or at any adjournment of the same before the first day of December next after the passing of this Act, shall make an order dividing such county or riding of a county into polling districts, and appointing in each such polling district a place (in this section referred to as a "polling place") for taking the poll at contested elections of members to serve in Parliament for such county :
- (5.) Every such division shall be made in such manner so that, as far as practicable, every building or place in such county in which petty sessions are at the time of the passing of this Act held shall be a polling place : *Provided* always, that where it appears to the

chairman and justices assembled at special sessions that, for the purpose of affording full facilities for taking the poll at contested elections, there should be polling places in addition to such buildings or places where petty sessions are held as aforesaid, they shall appoint so many polling places in addition to such buildings or places as they may think necessary, and constitute a polling district for each such polling place :

- (6.) Every such order shall specify the barony or baronies, half barony or half baronies, townland or townlands, parish or parishes, and places constituting each such polling district :
- (7.) A copy of every such order shall forthwith be sent by the clerk of the peace for such county to the clerk of the said Privy Council, who thereupon shall submit the same for confirmation by the Lord Lieutenant and Privy Council in Ireland, in the manner by this Act provided, and such order shall not be of any validity until the same has been so confirmed :
- (8.) Notice of the intended confirmation of any such order shall be given by the clerk of the said Privy Council at least one month before the day fixed for such confirmation by the publication of such notice and order in one or more newspapers circulating within such county or riding to which the order has reference :
- (9.) It shall be lawful for the Lord Lieutenant and Privy Council, on the day fixed for the intended confirmation of any such order, to confirm the same as it stands, or with such variation, alteration, or modification as may seem fit : Provided always, that where any person is dissatisfied with any such order it shall be lawful for such person, within fourteen days after the publication of the notice of the intended confirmation of such order, to appeal against the

same, and such appeal shall be in writing, stating the grounds thereof, and shall be signed by such person, and shall within such time be lodged with the clerk of the Privy Council; and it shall be lawful for the Lord Lieutenant and Privy Council, previous to the confirmation of any such order, to hear and determine such appeal against the same, and to make such order as to the costs of such appeal as may seem meet:

- (10.) When any such order has been confirmed as aforesaid, the clerk of the said Privy Council shall transmit a copy of the same to the clerk of the peace of the county to which the same relates, and shall cause the same to be published once in the Dublin Gazette, and once in the newspaper in which the notice of intended confirmation was published:
- (11.) The provisions of the Act of the session of the twenty-seventh and twenty-eighth years of the reign of Her present Majesty, chapter twenty-two, for ascertaining the voters in the new or altered polling districts referred to in the ninth section of the said Act, and for making separate lists of voters, and otherwise in relation thereto, shall extend and apply to every case in which any order in relation to any county has been confirmed under the authority of this section, in like manner as if such sections were herein re-enacted, and the polling districts to which the same refer or apply had been polling districts constituted under the authority of this section; and the register of voters in force in such county at the time of confirming such order as amended by the printed books given into the custody of the sheriff of such county in manner by the said Act provided, and the said printed books, shall be the register of persons entitled to vote at any election of a member or members to

serve in Parliament which shall take place in and for such county until the first day of January next after the giving of the said books as aforesaid : Provided always, that in the construction of the said provisions, the terms “the passing of this Act” and “the said Act” shall respectively be construed to mean the confirming of any order made under the authority of this section and this Act :

- (12.) At any election of a member or members to serve in Parliament for any county to which any such order relates held after the confirming of any such order, and before the register of voters to be formed subsequently to the date of the confirming of such order under the provisions of this section shall be in force, the poll shall be taken as if no such order had been made :
- (13.) All precepts, notices, and forms relating to the registration of voters shall be framed and expressed in such manner and form as may be necessary for the carrying the provisions of this Act into effect :
- (14.) When the chairman of quarter sessions and justices of the peace having jurisdiction in any county or riding in Ireland, assembled at any general or quarter sessions in any division of such county or riding, are of opinion that for the purpose of affording further facilities for polling at contested elections there should be within such district polling places in addition to the places appointed in manner aforesaid, they may by resolution determine that at the next general or quarter sessions in such division of such county the necessity for such additional polling places shall be considered by the chairman and justices assembled at the same :
- (15.) The clerk of the peace of such county shall, *within five days after the making of such reso-*

lution, send a written or printed copy of the same to the chairman and to every justice of the peace having jurisdiction within the county to which the same relates, and shall cause a copy of such resolution to be published twice in each of two consecutive weeks in some newspaper circulated in such county :

- (16.) The said chairman and justices assembled at such general or quarter sessions holden next after the making of such resolution shall consider whether additional polling places are necessary, and if they are of such opinion they may, by an order to be made in like manner and subject to the same provisions as to the making, confirming, and taking effect of the same as are in this section contained in relation to orders to be made at special sessions under the authority of the same, appoint such other places to be polling places as they shall think fit, and shall constitute polling districts for such polling places :
- (17.) No election shall be questioned by reason of any polling district not having been constituted in conformity with the provisions of this Act, or by reason of any informality relative to any polling district :
- (18.) When any day fixed for taking the poll at any election is the day fixed for the holding of the petty sessions court at any polling place, the court shall stand ipso facto adjourned till the next day, which shall in that case be the legal day for holding said court, and if that day be a Sunday or legal holiday, till the next day :
- 19.) The term "the Lord Lieutenant" in this section shall mean the Lord Lieutenant of Ireland and the lords justices or other chief governors or governor of Ireland for the time being, and the term "chairman of quarter sessions" in this section shall include any

person duly appointed to do the duty of such chairman during his sickness or absence.

See 36 & 37 Vict. c. 2, s. 4.

XIX. Where the name of any person is required to be inserted in any list of voters for any ward of any city, town, or borough under the provisions of section seven of the Act passed in the session of Parliament held in the thirteenth and fourteenth years of the reign of Her present Majesty, chapter sixty-eight, as qualified in respect of any property qualification, or as the occupier of any lands, tenements, or hereditaments situate in whole or in part beyond the limits of such ward, then and in every such case the names so required to be inserted shall be placed in alphabetical order in a separate part of such list to be styled "the list of rural or out voters of such ward," and the property, lands, tenements, and hereditaments in respect of which such person is qualified as aforesaid shall for the purposes of the said Act and the Acts amending the same, in relation to the providing of booths and compartments within each ward of any city, town, or borough, and the voting therein of persons entitled to vote in respect of any such qualifications aforesaid, be deemed to constitute a separate ward: Provided always, that the name of any such person shall not be placed in such separate list if such person shall, in writing under his hand, object thereto, and if such objection is delivered to such clerk of the peace on or before the twenty-fifth day of August next preceding the making of such list under the provisions aforesaid, and in such case in relation to such person the provisions of this section shall not apply.

See 36 & 37 Vict. c. 2.

Amendment of law as to voting in wards in certain boroughs, p. 82.

PART II.

MUNICIPAL ELECTIONS (a).

Applica-
tion to
municipal
election of
enact-
ments
relating to
the poll at
parliamen-
tary elec-
tions,
p. 84.

XX. The poll at every contested municipal election shall, so far as circumstances admit, be conducted in the manner in which the poll is by this Act directed to be conducted at a contested parliamentary election, and, subject to the modifications expressed in the schedules annexed hereto, such provisions of this Act and of the said schedules as relate to or are concerned with a poll at a parliamentary election shall apply to a poll at a contested municipal election: Provided as follows:

- (1.) The term "returning officer" shall mean the mayor or other officer who, under the law relating to municipal elections, presides at such elections:
- (2.) The term "petition questioning the election or return" shall mean any proceeding in which a municipal election can be questioned:
- (3.) The mayor shall provide everything which in the case of a parliamentary election is required to be provided by the returning officer for the purpose of a poll:

See s. 3 of 38 & 39 Vict. c. 40, *infra*.

- (4.) All expenses shall be defrayed in manner provided by law with respect to the expenses of a municipal election:
- (5.) No return shall be made to the Clerk of the Crown in Chancery:
- (6.) Nothing in this Act shall be deemed to authorise the appointment of any agents of a candidate in a municipal election, but if in the case of a municipal election any agent of a candidate is appointed, and a notice in writing of such appointment is given to the returning officer, the provisions of this Act with re-

(a) As to nomination at municipal elections, see p. 85, *supra*, and 38 & 39 Vict. c. 40, in this Appendix.

spect to agents of candidates shall, so far as respects such agent, apply in the case of that election :

- (7.) The provisions of this Act with respect to—
 (a.) The voting of a returning officer ; and
 (b.) The use of a room for taking a poll ;
 and
 (c.) The right to vote of persons whose names are on the register of voters ;
 shall not apply in the case of a municipal election.

A municipal election shall, except in so far as relates to the taking of the poll in the event of its being contested, be conducted in the manner in which it would have been conducted if this Act had not passed (a).

XXI. Assessors shall not be elected in any ward of any municipal borough, and a municipal election need not be held before the assessors or their deputies, but may be held before the mayor, alderman, or other returning officer only.

Abolition of ward assessors, p. 86.

Application of Part of Act to Scotland.

XXII. This part of this Act shall apply to Scotland, subject to the following provisions :

- (1.) The term "mayor" shall mean the provost or other chief magistrate of a municipal borough, as defined by this Act :
 (2.) All municipal elections shall be conducted in the same manner in all respects in which elections of councillors in the royal burghs contained in Schedule C. to the Act of the session of the third and fourth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to alter and amend the laws for the election of the Magis-

Alterations for application of Part II. to Scotland, p. 95.

(a) The register is now made conclusive in the case of municipal as well as of parliamentary elections by s. 5 of the Mun. El. Act, 1875. See, also, s. 10 of 35 & 36 Vict. c. 60 (Corrupt Practices (Mun. El.) Act, 1872).

trates and Councillors of the Royal Burghs in Scotland," are directed to be conducted by the Acts in force at the time of the passing of this Act as amended by this Act ; and all such Acts shall apply to such elections accordingly.

Application of Part of Act to Ireland.

Alterations for application of Part II. to Ireland, p. 96.

22 Vict. c. 35.

XXIII. This part of this Act shall apply to Ireland, with the following modifications :—

- (1.) The term "mayor" shall include the chairman of commissioners, chairman of municipal commissioners, chairman of town commissioners, and chairman of township commissioners :
- (2.) The provisions of "The Municipal Corporation Act, 1859," following ; that is to say, section five and section six, and section seven except so much thereof as relates to the form of nomination papers, and section eight except so much thereof as relates to assessors, shall extend and apply to every municipal borough in Ireland, and shall be substituted for any provisions in force in relation to the nomination at municipal elections : Provided always, that the term "councillor" in these sections shall for the purposes of this section include alderman, commissioner, municipal commissioner, town commissioner, township commissioner, or assessor of any municipal borough.

PART III.

PERSONATION.

Definition and punishment of personation, p. 48.

XXIV. The following enactments shall be made with respect to personation at parliamentary and municipal elections :

A person shall for all purposes of the laws relating to parliamentary and municipal elections be deemed

to be guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot paper in his own name.

The offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, shall be a felony, and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years together with hard labour. It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

The provisions of the Registration Acts, specified in the Third Schedule to this Act, shall in England and Ireland respectively apply to personation under this Act in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Acts.

The offence of personation shall be deemed to be a corrupt practice within the meaning of the Parliamentary Elections Act, 1868.

31 & 32
Vict. c.
125.

If, on the trial of any election petition questioning the election or return for any county or borough, any candidate is found by the report of the judge by himself or his agents to have been guilty of personation, or by himself or his agents to have aided, abetted,

counselled, or procured the commission at such election of the offence of personation by any person, such candidate shall be incapable of being elected or sitting in Parliament for such county or borough during the Parliament then in existence.

Vote to be struck off for bribery, treating, or undue influence.

XXV. Where a candidate, on the trial of an election petition claiming the seat for any person, is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect of any person who voted at such election, or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved on such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid.

The construction of this section was discussed in *Malcolm v. Parry*, L. R. 9 C. P. 610. At the close of 1873 Mr. Parry became the accepted Liberal candidate for Boston, and about the end of December caused a distribution of coals to be made in the borough. Many of the donees were electors not objects of charity. Mr. Parry's political agent signed the coal tickets, and otherwise acted in the distribution; and several of the distributors canvassed for Mr. Parry. At the election on Feb. 3rd Mr. Parry was elected with 1397 votes, Mr. Malcolm being next on the poll with 996 votes. Mr. Malcolm petitioned, and claimed the seat.

The election judge (Grove, J.) unseated Mr. Parry; and stated a special case for the opinion of the Court, on Mr. Malcolm's claim to strike off from Mr. Parry's votes one vote for every recipient of coals who was proved to have voted at the election, which would have the effect of giving Mr. Malcolm the seat. It was *held*: (1.) That there was a *prima facie* case of corruption against the voters who received coals, and that, in the absence of any rebutting evidence, votes must be struck off as contended by the petitioners. (2.) That under this section corrupt receipt on the part of the voter must be proved before his vote can be struck off.

The argument founded by Grove, J. (p. 623) on rule 41 of the Act, against the latter conclusion, appears to overlook the reasons for the greater stringency of the law in the case of bribery, which appear clearly in the judgments of Lord Coleridge, C. J., and Brett, J.

XXVI. This part of this Act shall apply to Scotland, subject to the following provision :—

The offence of personation shall be deemed to be a crime and offence, and the rules of the law of Scotland with respect to apprehension, detention, precognition, commitment, and bail shall apply thereto, and any person accused thereof may be brought to trial in the court of justiciary, whether in Edinburgh or on circuit, at the instance of the Lord Advocate, or before the sheriff court, at the instance of the procurator fiscal.

Alterations in Act as applying to Scotland, p. 76.

XXVII. This part of this Act, so far as regards parliamentary elections, shall be construed as one with "The Parliamentary Elections Act, 1868," and shall apply to an election for a university or combination of universities.

Construction of part of Act, p. 50.

PART IV.

MISCELLANEOUS.

XXVIII. The schedules to this Act, and the notes thereto, and directions therein, shall be construed and have effect as part of this Act.

Effect of schedules, p. 75.

XXIX. In this Act—

The expression "Municipal borough" means any place for the time being subject to the Municipal Corporation Acts, or any of them :

Definitions.

The expression "Municipal Corporation Acts" means—

"Municipal borough:"
"Municipal Corporation Acts :"

(a.) As regards England, the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the regulation of Municipal Corporations in England and Wales," and the Acts amending the same :

(b.) As regards Scotland, the Act of the session of the third and fourth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to alter and amend the laws for the election of Magistrates and Councillors of the Royal Burghs in Scotland," and the Act of the same session, chapter seventy-seven, intituled "An Act to provide for the appointment and election of Magistrates and Councillors for the several Burghs and Towns of Scotland which now return or contribute to return Members to Parliament, and are not Royal Burghs," and the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter thirty-three, intituled "An Act to make more effectual provision for regulating the Police of Towns and populous Places in Scotland, and for paving, draining, cleansing, lighting, and improving the same ;" and "The General Police and Improvement (Scotland) Act, 1862," and any Acts amending the same :

(c.) As regards Ireland, the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, intituled "An Act for the Regulation of Municipal Corporations in Ireland," the Act of the ninth year of George the Fourth, chapter eighty-two, "The Towns Improvement (Ireland) Act, 1854," and every local and personal Act providing for the election of commissioners in any towns or places for purposes similar to the purposes of the said Acts.

"Municipal election."

The expression "municipal election" means—

- (a.) As regards England, an election of any person to serve the office of councillor, auditor, or assessor of any municipal borough, or of councillor for a ward of a municipal borough ; and
- (b.) As regards Scotland, an election of any person to serve the office of councillor or commissioner

of any municipal borough, or of a ward or district of any municipal borough :

- (a.) As regards Ireland, an election of any person to serve the office of alderman, councillor, commissioner, municipal commissioner, town commissioner, township commissioner, or assessor of any municipal borough.

XXX. This Act shall apply to any parliamentary or municipal election which may be held after the passing thereof. Applica-
tion of
Act.

XXXI. Nothing in this Act, except Part III. thereof, shall apply to any election for a university or combination of universities. Saving,
p. 76.

Repeal.

XXXII. The Acts specified in the fourth, fifth, and sixth schedules to this Act, to the extent specified in the third column of those schedules, and all other enactments inconsistent with this Act, are hereby repealed. Repeal of
Acts in
schedules.

Provided that this repeal shall not affect—

- (a.) Anything duly done or suffered under any enactment hereby repealed ; or
- (b.) Any right or liability acquired, accrued, or incurred under any enactment hereby repealed ; or
- (c.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed ; or
- (d.) Any investigation, legal proceeding, or remedy in respect of any such right, liability, penalty, forfeiture, or punishment as aforesaid ; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed.

XXXIII. This Act may be cited as “The Ballot Act, 1872,” and shall continue in force till the thirty-first day of December one thousand eight hundred and eighty, and no longer, unless Parliament shall otherwise determine ; and on the said day the Acts in the fourth, fifth, and sixth schedules shall be thereupon revived ; provided that such revival shall not affect Short
title,
p. 76.

any act done, any rights acquired, any liability or penalty incurred, or any proceeding pending under this Act, but such proceeding shall be carried on as if this Act had continued in force.

SCHEDULES.

FIRST SCHEDULE.

PART I.

RULES FOR PARLIAMENTARY ELECTIONS (a).

Election.

Returning officer to give public notice of day of election, &c., p. 11.

1. The returning officer shall, in the case of a county election, within two days after the day on which he receives the writ, and in the case of a borough election, on the day on which he receives the writ or the following day, give public notice, between the hours of nine in the morning and four in the afternoon, of the day on which and the place at which he will proceed to an election, and of the time appointed for the election, and of the day on which the poll will be taken in case the election is contested, and of the time and place at which forms of nomination papers may be obtained, and in the case of a county election shall send one of such notices by post, under cover, to the postmaster of the principal post office of each polling place in the county, endorsed with the words "Notice of election," and the same shall be forwarded free of charge; and the postmaster receiving the same shall forthwith publish the same in the manner in which post office notices are usually published (b).

Limits within which day of election must be fixed, p. 12.

2. The day of election shall be fixed by the returning officer as follows; that is to say, in the case of an election for a county or a district borough not later than the ninth day after the day on which he receives the writ, with an interval of not less than three clear days between the day

(a) Marginal notes to the rules have been added by the author for the sake of convenience.

(b) See time table in App. II.

on which he gives the notice and the day of election; and in the case of an election for any borough other than a district borough not later than the fourth day after the day on which he receives the writ, with an interval of not less than two clear days between the day on which he gives the notice and the day of election.

3. The place of election shall be a convenient room situate in the town in which such election would have been held if this Act had not passed, or where the election would not have been held in a town, then situate in such town in the county as the returning officer may from time to time determine as being in his opinion most convenient for the electors.

Place of election, p. 12.

4. The time appointed for the election shall be such two hours between the hours of ten in the forenoon and three in the afternoon as may be appointed by the returning officer, and the returning officer shall attend during those two hours and for one hour after.

Time appointed for the election.

5. Each candidate shall be nominated by a separate nomination paper, but the same electors or any of them may subscribe as many nomination papers as there are vacancies to be filled, but no more.

Candidate must be nominated in separate nomination paper, p. 13.

6. Each candidate shall be described in the nomination paper in such manner as in the opinion of the returning officer is calculated to sufficiently identify such candidate; the description shall include his names, his abode, and his rank, profession, or calling, and his surname shall come first in the list of his names. No objection to a nomination paper on the ground of the description of the candidate therein being insufficient, or not being in compliance with this rule, shall be allowed or deemed valid, unless such objection is made by the returning officer or by some other person, at or immediately after the time of the delivery of the nomination paper.

Description of candidate in nomination paper, pp. 13, 14.

7. The returning officer shall supply a form of nomination paper to any registered elector requiring the same during such two hours as the returning officer may fix, between the hours of ten in the morning and two in the afternoon on each day intervening between the day on which notice of the election was given and the day of election, and during the time appointed for the election; but nothing in this Act shall render obligatory the use of a nomination paper supplied by the returning officer, so, however, that the paper be in the form prescribed by this Act. (Form of nomination paper, Sched. II.)

Returning officer to supply forms of nomination paper, p. 13.

8. The nomination papers shall be delivered to the delivery

of nomination papers,
p. 14.

Where election contested, returning officer to give public notice of day of poll, &c.,
p. 17.

Returning officer to give public notice as to withdrawn candidate,
p. 14.

Returning officer to publish names of candidates,
p. 15.

No person a candidate unless duly nominated,
p. 16.

returning officer at the place of election during the time appointed for the election; and the candidate nominated by each nomination paper, and his proposer and seconder, and one other person selected by the candidate, and no person other than aforesaid, shall, except for the purpose of assisting the returning officer, be entitled to attend the proceedings during the time appointed for the election.

9. If the election is contested the returning officer shall, as soon as practicable after adjourning the election, give public notice of the day on which the poll will be taken, and of the candidates described as in their respective nomination papers, and of the names of the persons who subscribe the nomination paper of each candidate, and of the order in which the names of the candidates will be printed in the ballot paper, and, in the case of an election for a county, deliver to the postmaster of the principal post office of the town in which is situate the place of election a paper, signed by himself, containing the names of the candidates nominated, and stating the day on which the poll is to be taken, and the postmaster shall forward the information contained in such paper by telegraph, free of charge, to the several postal telegraph offices situate in the county for which the election is to be held, and such information shall be published forthwith at each such office in the manner in which post office notices are usually published.

10. If any candidate nominated during the time appointed for the election is withdrawn in pursuance of this Act, the returning officer shall give public notice of the name of such candidate, and the names of the persons who subscribed the nomination paper of such candidate, as well as of the candidates who stood nominated or were elected.

11. The returning officer shall, on the nomination paper being delivered to him, forthwith publish notice of the name of the person nominated as a candidate, and of the names of his proposer and seconder, by placarding or causing to be placarded the names of the candidate and his proposer and seconder in a conspicuous position outside the building in which the room is situate appointed for the election.

12. A person shall not be entitled to have his name inserted in any ballot paper as a candidate unless he has been nominated in manner provided by this Act, and every person whose nomination paper has been delivered to the returning officer during the time appointed for the

election shall be deemed to have been nominated in manner provided by this Act, unless objection be made to his nomination paper by the returning officer or some other person before the expiration of the time appointed for the election or within one hour afterwards.

13. The returning officer shall decide on the validity of every objection made to a nomination paper, and his decision, if disallowing the objection, shall be final; but if allowing the same, shall be subject to reversal on petition questioning the election or return.

Objections to nomination papers to be decided by returning officer, p. 15.

The Poll (a).

14. The poll shall take place on such day as the returning officer may appoint, not being in the case of an election for a county or a district borough less than two nor more than six clear days, and not being in the case of an election for a borough other than a district borough more than three clear days after the day fixed for the election.

Day of poll, p. 17.

15. At every polling place the returning officer shall provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient, provided that in a district borough there shall be at least one polling station at each contributory place of such borough.

Provision of polling stations, p. 23.

16. Each polling station shall be furnished with such number of compartments, in which the voters can mark their votes screened from observation, as the returning officer thinks necessary, so that at least one compartment be provided for every one hundred and fifty electors entitled to vote at such polling station.

Compartments in stations, pp. 24-25.

17. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

Several stations in one room.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

Elector to vote at allotted station p. 26.

19. The returning officer shall give public notice of the situation of polling stations and the description of voters entitled to vote at each station, and of the mode in which electors are to vote.

Public notice of stations,

Form of directions as to voting, Sched. II, p. 147.

(a) See the account of the Westminster election, 1874, in App. III.

cc. p. 27.

Provision
of marking
materials,
&c.,
p. 27.

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same county or borough.

Presiding
officer,
p. 30.

21. The returning officer shall appoint a presiding officer to preside at each station, and the officer so appointed shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty (a).

Form of
ballot
paper,
p. 29.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names: it shall be in the form set forth in the Second Schedule to this Act, or as near thereto as circumstances admit, and shall be capable of being folded up.

Form of ballot paper, Sched II. p. 146.

Ballot box,
p. 27.

23. Every ballot box shall be so constructed that the ballot paper can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Official
mark on
ballot
paper,
p. 28.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector shall be marked on the counter-

(a) The candidates must not be excluded notwithstanding the generality of these words. *Clementson v. Mason*, L. R. 10 C. P. 209.

foil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

Marking
vote,
p. 44.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as hereinafter mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

Presiding
officer to
mark vote
in certain
cases,
p. 47.

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form hereinafter mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

Form of declaration, Sched. II., p. 148.

27. If a person, representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions and taking the oath permitted by law to be asked of and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called a tendered ballot paper) shall be of a colour differing from the other

Tendered
votes,
p. 46.

ballot papers, and instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his number on the register shall be entered on a list, in this Act called the tendered votes list.

Spoilt
ballot
papers,
p. 46.

28. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

Proceed-
ings on
close of
poll,
p. 54.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals,—

- (1.) Each ballot box in use at his station, unopened but with the key attached ; and
- (2.) The unused and spoilt ballot papers placed together ; and
- (3.) The tendered ballot papers ; and
- (4.) The marked copies of the register of voters, and the counterfoils of the ballot papers ; and
- (5.) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read, and shall deliver such packets to the returning officer.

The marked copies of the register and the counterfoils should be in separate packets. In *Stowe v. Jolliffe*, L. R. 9 C. P. 446, however, inspection of the marked register was ordered, though contained in the same packet as the counterfoils.

Ballot
paper
account,
p. 55.

30. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused,

spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

Counting Votes (a).

31. The candidates may respectively appoint agents to attend the counting of the votes.

Agents,
p. 52.

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

Notice to
agents of
time of
counting,
p. 56.

33. The returning officer, his assistants and clerks, and the agents of the candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

Who pre-
sent at
counting,
p. 56.

34. Before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and, taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

Proceed-
ings at
counting,
pp. 56-7.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding (except so far as he and the agents otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

Exclusion
of certain
hours,
p. 57.

36. The returning officer shall endorse "rejected" on

Rejected
papers,

(a) See the account of the Westminster election, 1874, in P. 58. App. III.

any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision. The returning officer shall report to the Clerk of the Crown in Chancery the number of ballot papers rejected and not counted by him under the several heads of—

- (1.) Want of official mark ;
- (2.) Voting for more candidates than entitled to ;
- (3.) Writing or mark by which voter could be identified ;
- (4.) Unmarked or void for uncertainty ;

and shall on request allow any agents of the candidates, before such report is sent, to copy it.

Proceed-
ings on
completion
of
counting,
p. 62.

37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall report to the Clerk of the Crown in Chancery the result of such verification, and shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

Returning
officer to
forward
packets
of ballot
papers,
&c., to
Clerk of
Crown,
p. 63.

38. Lastly, the returning officer shall forward to the Clerk of the Crown in Chancery (in manner in which the poll books are by any existing enactment required to be forwarded to such clerk, or as near thereto as circumstances admit) all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the county or borough for which such election was held ; and the term poll book in any such enactment shall be construed to include any document forwarded in pursuance of this rule.

*Clerk of
Crown to*

39. The Clerk of the Crown shall retain for a year all documents relating to an election forwarded to him in

pursuance of this Act by a returning officer, and then, unless otherwise directed by an order of the House of Commons, or of one of Her Majesty's Superior Courts, shall cause them to be destroyed.

keep them for a year, p. 64.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the Clerk of the Crown in Chancery, except under the order of the House of Commons or under the order of one of Her Majesty's Superior Courts, to be granted by such Court on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the House or Court making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery. Any power given to a court by this rule may be exercised by any judge of such court at Chambers.

Inspection of rejected ballot papers, p. 64.

41. No person shall, except by order of the House of Commons or any tribunal having cognizance of petitions complaining of undue returns or undue elections, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the Custody of the Clerk of the Crown in Chancery; such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the House or tribunal making the order may think expedient; provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent Court to be invalid.

Of counterfoils and counted ballot papers, p. 64.

The Court of Common Pleas, in the case of *Stowe v. Jolliffe*, L. R. 9 C. P. 446, granted inspection and a copy of the marked register of voters, on an affidavit by the agent of a petitioner, that in his judgment and belief it was requisite for the purposes of the petition, and for enabling him duly to prepare the case of the petitioner, that he should be allowed to inspect the same, although the marked register was contained in the same sealed packet as the counterfoils. It was further held by Brett, J., that the inspection should be extended to the backs of the rejected ballot papers and

to the counterfoils: while Grove and Denman, JJ. (the latter doubting) were of opinion that a strong case has to be made out for inspection of the latter documents, and that in this instance the grounds shown were not sufficient. And *semble*, per Brett, J., that the practice in granting inspection under the Ballot Act should be regulated by the same rules which guide the Court in ordinary cases, proper precautions being taken against any violation of the secrecy of voting which it is the object of the Act to secure.

Of other
election
docu-
ments,
p. 64.

42. All documents forwarded by a returning officer in pursuance of this Act to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery, with the consent of the Speaker of the House of Commons, and the Clerk of the Crown shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may be sanctioned by the Treasury.

Evidence.

43. Where an order is made for the production by the Clerk of the Crown in Chancery of any document in his possession relating to any specified election, the production by such clerk or his agent of the document ordered, in such manner as may be directed by such order, or by a rule of the court having power to make such order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such Clerk of the Crown or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

General Provisions.

Certificate
of return
of writ,
pp. 65-6.

44. The return of a member or members elected to serve in Parliament for any county or borough shall be made by a certificate of the names of such member or members under the hand of the returning officer *endorsed on the writ of election* for such county or borough,

and such certificate shall have effect and be dealt with in like manner as the return under the existing law, and the returning officer may, if he think fit, deliver the writ with such certificate endorsed to the postmaster of the principal post office of the place of election, or his deputy, and in that case he shall take a receipt from the postmaster or his deputy for the same; and such postmaster or his deputy shall then forward the same by the first post, free of charge, under cover, to the Clerk of the Crown, with the words "Election Writ and Return" endorsed thereon.

Form of certificate, Sched. II., p. 144.

45. The returning officer shall, as soon as possible, give public notice of the names of the candidates elected, and in the case of a contested election, of the total number of votes given for each candidate, whether elected or not.

46. Where the returning officer is required or authorised by this Act to give any public notice, he shall carry such requirement into effect by advertisements, placards, handbills, or such other means as he thinks best calculated to afford information to the electors.

47. The returning officer may, if he think fit, preside at any polling station, and the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. In the case of a contested election for any county or borough, the returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

51. A candidate may himself undertake the duties which any agent of his if appointed might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent (a) may, in pursuance of this Act, attend.

Public notice of elected candidates, pp. 61-2. "Public notice," how given. Returning officer may preside at station, p. 30.

May appoint assistants for counting, p. 30. May not appoint person employed in election. Presiding officer may delegate powers, p. 31.

Candidate may act as agent,

(a) See p. 53, *supra*, and *Clementson v. Mason*, L. R. 10 p. 53. C. P. 209.

Names of agents to be sent to returning officer, p. 53.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

Vacancy in office of agent may be filled, p. 53.

53. If any person appointed an agent by a candidate for the purposes of attending at the polling station or at the counting of the votes dies, or becomes incapable of acting during the time of the election, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent so appointed.

Declaration of secrecy, p. 41.

54. Every returning officer, and every officer, clerk, or agent authorised to attend at a polling station, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or an agent, of a justice of the peace or of the returning officer: but no such returning officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

Form of declaration, Schedule II. p. 148.

Construction of words as to agents.

55. Where in this Act any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done.

Sunday, &c.

56. In reckoning time for the purposes of this Act, Sunday, Christmas-day, Good Friday, and any day set apart for a public fast or public thanksgiving, shall be excluded; and where anything is required by this Act to be done on any day which falls on the above-mentioned days such thing may be done on the next day, unless it is one of the days excluded as above-mentioned.

57. In this Act—

The expression “district borough” means the borough of Monmouth and any of the boroughs specified in Schedule E. to the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, intituled “An Act to amend the Representation of the People in England and Wales;” and

Definitions.

The expression “polling place” means, in the case of a borough, such borough or any part thereof in which a separate booth is required or authorised by law to be provided; and

The expression “agents of the candidates” used in relation to a polling station, means agents appointed in pursuance of section eighty-five of the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter eighteen.

Modifications in Application of Part One of Schedule to Scotland.

58. In Scotland, the place of election shall be a convenient room situate in the town in which the writ for the election would, if this Act had not passed, have been proclaimed.

Place of election.
p. 76.

59. In Scotland, the candidates may respectively appoint agents to attend at the polling stations. The ballot papers and other documents other than the return required to be sent to and kept by the Clerk of the Crown in Chancery, shall, in Scotland, be kept by the sheriff clerks of the respective counties in which the returns (including those for burghs) are made, and the provisions of this schedule relating thereto shall be construed as if the sheriff clerk were substituted for Clerk of the Crown in Chancery.

Agents,
p. 76.

60. In Scotland, the term “district borough” shall mean the combined burghs and towns specified in Schedule E. of the Act of the session of the second and third years of the reign of King William the Fourth, chapter sixty-five, intituled “An Act to amend the Representation of the People in Scotland;” and in Schedule A. of the Representation of the People (Scotland) Act, 1868.

“District borough.”

61. The provisions of the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, intituled “An Act to amend the Representation of the People in England and Wales;” and in Schedule A. of the Representation of the People (Scotland) Act, 1868.

Saving for Orkney.

Shetland,
&c.

the Fourth, chapter sixty-five, intituled "An Act to amend the Representation of the People in Scotland," in so far as they relate to the fixing and announcement of the day of election, the interval to elapse between the receipt of the writ and the day of election, the period of adjournment for taking the poll in the case of Orkney and Shetland, and of the district of burghs comprising Kirkwall, Wick, Dornoch, Dingwall, Tain, and Cromarty, and to the keeping open of the poll for two consecutive days in the case of Orkney and Shetland, shall remain in full force and effect, anything in this Act or any other Act of Parliament now in force notwithstanding; but nothing herein contained shall be construed to exclude Orkney and Shetland or Orkney or Shetland, or the said district of burghs, or any of the burghs in the said district, from any of the benefits and obligations of the other portions of this Act.

Modifications in Application of Part One of Schedule to Ireland.

62. The expression "Clerk of the Crown in Chancery" in this schedule shall mean, as regards Ireland, "the Clerk of the Crown and Hanaper in Ireland."

63. A presiding officer at a polling station in a county in Ireland need not be a freeholder of the county.

PART II.

RULES FOR MUNICIPAL ELECTIONS.

Modifica-
tions in
applica-
tion of
rules to
municipal
elections,
p. 84 seq.

64. In the application of the provisions of this schedule to municipal elections the following modifications shall be made:—

- (a.) The expression "register of voters" means the burgess roll of the burgesses of the borough, or, in the case of an election for the ward of a borough, the ward list; and the mayor shall provide true copies of such register for each polling station:
- (b.) All ballot papers and other documents which, in the case of a parliamentary election, are forwarded to the Clerk of the Crown in Chancery shall be delivered to the town clerk of the

municipal borough in which the election is held, and shall be kept by him among the records of the borough; and the provisions of part one of this schedule with respect to the inspection, production, and destruction of such ballot papers and documents, and to the copies of such documents, shall apply respectively to the ballot papers and documents so in the custody of the town clerk, with these modifications; namely,

(a.) An order of the county court having jurisdiction in the borough, or any part thereof, or of any tribunal in which a municipal election is questioned, shall be substituted for an order of the House of Commons, or of one of Her Majesty's superior Courts; but an appeal from such county court may be had in like manner as in other cases in such county court:

(b.) The regulations for the inspection of documents and the fees for the supply of copies of documents of which copies are directed to be supplied, shall be prescribed by the council of the borough with the consent of one of Her Majesty's Principal Secretaries of State; and, subject as aforesaid, the town clerk, in respect of the custody and destruction of the ballot papers and other documents coming into his possession in pursuance of this Act, shall be subject to the directions of the council of the borough:

(c.) Nothing in this schedule with respect to the day of the poll shall apply to a municipal election.

Modifications in Application of Part II. of Schedule to Scotland.

65. In part two of this schedule as applying to Scotland—

The expression "register of voters" means the register, list, or roll of persons entitled to vote in a municipal election made up according to the law for the time being in force.

The expression "county court" means the sheriff court.

The expression "town clerk" includes the clerk appointed by the Commissioners of Police under the Act of the session of the thirteenth and fourteenth

Modifications for municipal elections in Scotland, p. 95.

years of the reign of Her present Majesty, chapter thirty-three, intituled "An Act to make more effectual provision for regulating the police of towns and populous places in Scotland, and for paving, draining, cleansing, lighting, and improving the same," and of the General Police and Improvement (Scotland) Act, 1862.

Modifications in Application of Part II. of Schedule to Ireland.

Modifications for municipal elections in Ireland, p. 96.

66. In part two of this schedule as applying to Ireland—The expression "register of voters," in addition to the meaning specified in such part, means, in relation to any municipal borough subject to the provisions of a Local Act requiring an annual revision of the lists of voters at municipal elections, the register of voters made in conformity with the said provisions of such Local Act, and in relation to municipal boroughs to which Part II. of the Local Government (Ireland) Act, 1871, applies, the list to be made under the provisions of section twenty-seven of the said Act, and in relation to other municipal boroughs a list which the town clerk of every municipal borough is hereby authorised and directed to make, in like manner in every respect as if the provisions of the said section were applicable to and in force within such municipal borough.

The expression "county court" means the Civil Bill Court.

The expression "town clerk" includes clerk to the commissioners, municipal commissioners, town commissioners, or township commissioners of any municipal borough, and any person executing the duties of such town clerk.

The expression "council of the borough" includes commissioners, municipal commissioners, and town commissioners of the town, and township commissioners of the township.

The expression "one of Her Majesty's Principal Secretaries of State" means the Chief Secretary of the Lord Lieutenant of Ireland.

SECOND SCHEDULE.

Note.—The forms contained in this schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

Writ for a County or Borough at a Parliamentary Election.

*Victoria, by the Grace of God, of the United Kingdom
of Great Britain and Ireland, Queen, Defender of the
Faith, to the † of the county [*or* borough] of
 , greeting:

† Whereas by the advice of our Council we have ordered a Parliament to be holden at Westminster on the day of next. We command you that, notice of the time and place of election being first duly given, you do cause election to be made according to law of members [or a member] to serve in Parliament for the said county [or the division of the said county, or the borough, or as the case may be] of § and that you do cause the names of such members [or member] when so elected, whether they [or he] be present or absent, to be certified to us, in our Chancery, without delay.

Witness ourself at Westminster, the day of
in the year of our reign, and in the year of our
Lord 18

Label or Direction of Writ.

To the † of

A writ of a new election of members [or member] for the said county [or division of a county or borough, or as the case may be].

Endorsement.

Received the within writ on the day of 18 .

(Signed) A. B.,

High Sheriff [or Sheriff, or Mayor, or as the case may be].

* The name of the Sovereign may be altered when necessary.

+ Insert
"sheriff"
or other
returning
officer.

‡ This preamble to be omitted except in case of a general election.

§ Except in a general election, insert here in the place of A. B., deceased, or otherwise, stating the cause of vacancy.

Certificate endorsed on the Writ.

I hereby certify, that the members [*or member*] elected for in pursuance of the within-written writ, are [*or is*] *A.B.* of in the county of and *C.D.* of in the county of .

(Signed) *A.B.*,

High Sheriff [*or Sheriff, or Mayor, or as the case may be*].

Note.—A separate writ will be issued for each county as defined for the purposes of a parliamentary election.

Form of Notice of Parliamentary Election.

The returning officer of the of will, on the day of now next ensuing, between the hours of and , proceed to the nomination, and, if there is no opposition, to the election, of a member [*or members*] for the said county [*or division of a county or borough*] at the *

* *Note.* Insert description of place and room,

Forms of nomination paper may be obtained at * , between the hours of and on

Every nomination paper must be signed by two registered electors as proposer and seconder, and by eight other registered electors as assenting to the nomination.

Every nomination paper must be delivered to the returning officer by the candidate proposed, or by his proposer and seconder, between the said hours of and on the said day of at the said *.

Each candidate nominated, and his proposer and seconder, and one other person selected by the candidate, and no other persons, are entitled to be admitted to the room.

In the event of the election being contested, the poll will take place on the day of

(Signed) *A.B.*,

Sheriff [*or Mayor, or as the case may be*].
day of 18 .

Take notice, that all persons who are guilty of bribery, treating, undue influence, personation, or other corrupt practices at the said election will, on conviction of such offence, be liable to the penalties mentioned in that behalf in "The Corrupt Practices Prevention Act, 1854," and the Ballot Act, 1872, and the Acts amending the said Acts.

Form of Nomination Paper in Parliamentary Election.

We, the undersigned *A.B.* of _____ in the
of _____ and *C.D.* of _____ in the _____ of _____,
being electors for the _____ of _____, do hereby
nominate the following person as a proper person to serve
as member for the said _____ in Parliament:

Surname.	Other Names.	Abode.	Rank, Profession, or Occupation.
BROWN.	JOHN - - -	52, George St., Bristol.	Merchant.
JONES.	<i>or</i> WILLIAM DAVID -	High Elms, Wilts	Esquire.
MERTON.	<i>or</i> Hon. GEORGE TRA- VIS, commonly called Viscount.	Swanworth, Berks	Viscount.
SMITH.	<i>or</i> HENRY SYDNEY -	72, High St., Bath	Attorney.

(Signed) *A.B.*
C.D.

We, the undersigned, being registered electors of the
_____, do hereby assent to the nomination of the above-
mentioned *John Brown* as a proper person to serve as
member for the said _____ in Parliament.

(Signed) *E.F.* of _____
G.H. of _____
I.J. of _____
K.L. of _____
M.N. of _____
O.P. of _____
Q.R. of _____
S.T. of _____

Note.—Where a candidate is an Irish peer, or is com-
monly known by some title, he may be described by his
title as if it were his surname.

Form of Nomination Paper in Municipal Election.

Note.—The form of nomination paper in a municipal election shall as nearly as circumstances admit be the same as in the case of a parliamentary election.

This direction as to the form of nomination paper is repealed by the Mun. El. Act, 1875 (38 & 39 Vict. c. 40), but as that Act apparently extends only to England, the direction remains in force so far as relates to municipal elections in Scotland and Ireland.

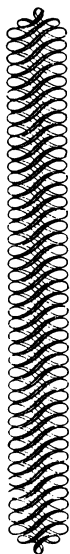
Form of Ballot Paper.

Form of Front of Ballot Paper.

Counter-
foil.
No.

NOTE:

The counter-foil is to have a number to correspond with that on the back of the Ballot Paper.



1	BROWN (John Brown, of 52, George St., Bristol, Merchant.)	
2	JONES (William David Jones, of High Elms, Wilts, Esq.)	
3	MERTON. (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Berks.)	
4	SMITH. Henry Sydney Smith, of 72, High Street, Bath, attorney.)	

Form of Back of Ballot Paper.

No.

Election for county [or borough, or ward].
18 .

Note.—The number on the ballot paper is to correspond with that on the counterfoil.

See observations at p. 29, as to the form of ballot paper.

Directions as to printing Ballot Paper.

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, as shown in the form, and the names, addresses, and descriptions, and the number on the back of the paper, shall be printed in small characters.

Form of Directions for the Guidance of the Voter in voting, which shall be printed in conspicuous Characters, and placarded outside every Polling Station, and in every Compartment of every Polling Station.

The voter may vote for candidate .

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper (a).

If the voter votes for more than candidate , or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanor, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Note.—These directions shall be illustrated by examples of the ballot paper.

(a) For the construction which these directions have received, see pp. 58—60.

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare, That I will not at this election for do anything forbidden by section four of "The Ballot Act, 1872," which has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration.

Form of Declaration of inability to read.

I, A.B., of , being numbered on the Register of Voters for the county [or borough] of , do hereby declare that I am unable to read.

A.B., his mark.

day of
I, the undersigned, being the presiding officer for the polling station for the county [or borough] of , do hereby certify, that the above declaration, having been first read to the above-named A.B., was signed by him in my presence with his mark.

Signed, C.D.,

Presiding officer for polling station
for the county [or borough] of
day of .

THIRD SCHEDULE.

Provisions of Registration Acts referred to in Part III. of the foregoing Act.

Session and Chapter.	Title.	Part applied.
	<i>As to England.</i>	
6 & 7 Vict. c. 18.	An Act to amend the law for the registration of persons entitled to vote, and to define certain rights of voting, and to regulate certain proceedings in the elections of members to serve in Parliament for England and Wales.	Sections eighty-five to eighty-nine, both inclusive.

Session and Chapter.	Title.	Part applied.
<i>As to Ireland.</i>		
13 & 14 Vict. c. 69.	An Act to amend the laws which regulate the qualification and registration of parliamentary voters in Ireland, and to alter the law for rating immediate lessors of premises to the poor rate in certain boroughs.	Sections ninety-two to ninety-six, both inclusive.

38 & 39 VICT. c. 40.

*An Act to amend the Law regulating Municipal
Elections.* [19th July, 1875.]

This Act assimilates the law as to nomination at municipal elections to that at Parliamentary elections, and makes several other amendments of municipal election law, which are noticed in Chapter II. of the Introduction. The Act does not apply to elections of Aldermen.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say,)

Provisions
applicable
to municipal
elections,
pp. 85-88.

I. The following provisions shall be enacted and apply to nominations at all municipal elections of councillors, auditors, and assessors after the passing of this Act:

- (1.) Nine days at least before any such election the town clerk shall prepare, sign, and publish a notice in the form No. 1 set forth in the first schedule to this Act, or to the like effect, by causing the same to be placed on the door of the Town Hall, and in some conspicuous parts of the borough or ward for which any such election is to be held.
- (2.) At any such election every candidate shall be nominated in writing; the writing shall be

subscribed by two enrolled burgesses of such borough or ward as proposer and seconder, and by eight other enrolled burgesses of such borough or ward as assenting to the nomination. Each candidate shall be nominated by a separate nomination paper, but the same burgesses, or any of them, may subscribe as many nomination papers as there are vacancies to be filled, but no more. Every person nominated shall be enrolled on the burgess roll of the borough, or a person whose name is inserted in the separate list at the end of the burgess roll, as provided by section three of the Act thirty-two and thirty-three Victoria, chapter fifty-five, and shall be otherwise qualified to be elected. The nomination paper shall state the surname and other names of the person nominated, with his place of abode and description, and shall be in the form No. 2 set forth in the first schedule to this Act, or to the like effect. And the town clerk shall provide nomination papers, and shall supply any enrolled burgess with as many nomination papers as may be required, and shall, at the request of any such person, fill up a nomination paper in manner prescribed by this Act.

- (3.) Every nomination paper subscribed as aforesaid shall be delivered by the candidate himself, or his proposer or seconder, to the town clerk, seven days at least before the day of election, and before five o'clock in the afternoon of the last day on which any such nomination paper may by law be delivered; the town clerk shall forthwith send notice of such nomination to each person nominated. The mayor shall attend at the Town Hall on the day next after the last day for the delivery of nominations to the town clerk between the hours of two and four in the

afternoon, and shall decide on the validity of every objection made to a nomination paper, such objection to be made in writing. The candidate nominated by each nomination paper, and one other person, appointed by or on behalf of the candidate as hereinafter mentioned, and no person other than aforesaid, shall, except for the purpose of assisting the mayor, be entitled to attend such proceedings, and each candidate and the person appointed by him shall, during the time appointed for the attendance of the mayor for the purposes of this section, have respectively power to object to the nomination paper of every person nominated at the same election. The decision of the mayor, which shall be given in writing, shall, if disallowing any objection to a nomination paper, be final, but if allowing the same shall be subject to reversal on petition questioning the election or return. The appointment by or on behalf of candidates of persons as aforesaid shall be made in writing under the hand of the candidate, or, in case he is absent from the United Kingdom, then under the hand of his proposer or seconder, and shall be delivered to the town clerk before five o'clock in the afternoon of the last day on which nomination papers may by law be delivered.

The town clerk shall at least four days before the day of election cause the surnames and other names of all persons duly nominated, with their respective places of abode and descriptions, and the names of the persons subscribing their respective nomination papers as proposers and seconders, to be printed and placed on the door of the Town Hall, and in some conspicuous parts of the borough or ward for which such election is to be held.

- (4.) Section eight of the Act of twenty-second Victoria, chapter thirty-five, so far as the same is now in force, shall apply to nominations of councillors, auditors, and assessors, duly made and allowed under this Act.

Section three of the Ballot Act, 1872, shall apply to nomination papers under this Act, and so applied, the word "returning officer" shall be taken to include town clerk in reference to the delivery of such nomination papers.

II. The nomination of a person who is absent from the United Kingdom shall be void, unless his written consent given within one month of the day of his nomination before two witnesses be produced at the time of his nomination.

Candidates out of United Kingdom ineligible, p. 88.

III. At any municipal election of councillors, auditors, or assessors, the power and duty of the mayor, under section twenty of the Ballot Act of 1872, to provide everything which in the case of a parliamentary election is required to be provided by the returning officer for the purpose of a poll, shall (save as to the appointment of the alderman as returning officer for any ward) extend to the appointment of officers for taking the poll and counting the votes recorded at such election.

Mayor to appoint officers for taking the poll, p. 90.

IV. The provisions contained in Rules 16 and 19 of the first schedule to the Ballot Act, 1872, shall not apply to any such election, but the mayor shall furnish every polling station with such number of compartments in which the voters can mark their votes screened from observation, and furnish each presiding officer with such number of ballot papers, as in the judgment of the mayor shall be necessary for effectually taking the poll at such election in other respects in the manner provided by the Ballot Act, 1872. Where more candidates are nominated than there are vacancies to be supplied, the mayor shall at least four days before the day of election, give such public notice as may be required by law of the situation, division, and allotment of polling places for

Amendment of law, p. 85.

taking the poll at any municipal election, and of the description of persons entitled to vote thereat and at the several polling stations.

Conclu-
siveness of
burgess
roll, p. 91.

V. At any municipal election a person shall not be entitled to sign or subscribe any nomination paper, or to vote, unless his name is on the burgess roll for the time being in force in the borough, or on the ward list for the time being in force for the ward, for which such election shall be held; and every person whose name is on such burgess roll or ward list, as the case may be, shall be entitled to sign or subscribe any nomination paper, and to demand and receive a ballot paper, and to vote; provided that nothing in this section shall entitle any person to do any of the acts aforesaid who is prohibited from doing such acts or any of them by law, or relieve such person from any penalties to which he may be liable for doing any such act.

One poll
to be taken
for audi-
tors and
assessors,
p. 93.

VI. At the poll at any election of auditors and assessors one ballot paper only shall be used by any person voting. In such ballot paper the names of the candidates for the respective offices shall be separate, and distinguished so as to show the office for which they are respectively candidates, and the ballot paper shall be in the Form No. 3 set forth in the first schedule to this Act or to the like effect, and the provisions of the Ballot Act, 1872, shall at any such election be altered and varied accordingly; provided always, that in counting the votes every such ballot paper shall be deemed to be a separate ballot paper in respect of each office, and any objections thereto shall be considered and dealt with accordingly.

With-
drawal of
candi-
dates,
p. 90.

VII. Where more candidates are nominated at any municipal election than there are vacancies to be filled at such election, any of such candidates may withdraw from his candidature by notice signed by him and delivered to the town clerk not later than two o'clock in the afternoon of the day next after the last day for the delivery of nomination papers to the *town clerk*; provided that such notices shall take

effect in the order in which they are delivered to the town clerk, and that no such notice shall have effect so as to reduce the number of candidates ultimately standing nominated below the number of the vacancies to be filled.

VIII. Any notice required by law to be given or published by the mayor or other returning officer or town clerk in connexion with any municipal election may, as to auditors and assessors, be comprised in one notice, and with respect to the election of councillors in any borough divided into wards, may comprise the matter necessary to such notice for the several wards in the borough, and it shall not be necessary to issue a separate notice for each ward.

Notices by mayor or town clerk may comprise the several wards of borough, p. 93.

IX. Section eleven of the Act sixteenth and seventeenth Victoria, chapter seventy-nine, shall be read as if fourteen days were therein inserted instead of ten days, and the day for holding the election in the case of any extraordinary vacancy in the office of councillor, auditor, or assessor in any borough (whether such borough shall be divided into wards or not) shall be fixed by the mayor.

Time of holding election on extraordinary vacancies, p. 93.

X. The town council of any borough may by order divide any such borough or any ward or wards of such borough into polling districts in such manner as they may think most convenient for taking the votes of the burgesses at a poll, and the overseers shall, so far as practicable, make out the lists of burgesses in such manner as to divide the names in conformity with such polling districts.

Power to town council to divide wards into polling places as they may think fit, p. 85.

XI. In reckoning time for the purpose of this Act, Sunday, Christmas Day, Good Friday, and any day set apart for a public holiday, fast, or public thanksgiving, shall be excluded.

Computation of time under the Act.

XII. The several Acts of Parliament mentioned in the Second Schedule to this Act shall be repealed to the extent specified in the third column of such schedule, but such repeal shall not affect the validity or invalidity of anything already done or suffered, or

Repeal of parts of Acts in Second Schedule.

Act to be
construed
with
Municipal
Corpora-
tion Acts.

Short
title.

Duration
of Act.

any remedy or proceeding in respect thereof, or the proof of any past act or thing.

XIII. This Act shall, as far as consistent with the tenor thereof, be construed as one with the Act fifth and sixth William the Fourth, chapter seventy-six, and the Acts amending the same, and the Acts for the time being in force relating to elections of councillors, auditors, and assessors in boroughs.

XIV. This Act may for all purposes be cited as "The Municipal Elections Act, 1875."

XV. This Act shall continue in force for so long only as the Ballot Act, 1872, continues in force.

FIRST SCHEDULE.

FORM No. 1.

NOTICE.

Borough of . Election of [Councillors, or
Auditors, or Assessors, as the case may be] for the
[Ward or several Wards of the]
Borough.

Take Notice,

1. That an election of [*here insert the number of Councillors, Auditors, or Assessors, as the case may be*] for the [Ward or several Wards of the] said Borough will be held on the day of

2. Candidates must be nominated by writing, subscribed by two enrolled burgesses as proposer or seconder, and by eight other enrolled burgesses as assenting to the nomination.

3. Candidates must be duly qualified for the office to which they are nominated, and the nomination paper *must state the surname* and other names of the person

nominated, with his place of abode and description, and may be in the following form, or to the like effect:

(Set out Form No. 2.)

4. Each candidate must be nominated by a separate nomination paper, but the same burgesses or any of them, may subscribe as many nomination papers as there are vacancies to be filled for the borough [or ward], but no more.

5. Every person who forges a nomination paper, or delivers any nomination paper knowing the same to be forged, will be guilty of misdemeanor, and be liable to imprisonment for any term not exceeding six months, with or without hard labour.

6. Nomination papers must be delivered by the candidate himself, or his proposer or seconder, to the town clerk at his office before five o'clock in the afternoon of day the day of next.

7. The mayor will attend at the Town Hall on day the day of , from two to four o'clock in the afternoon, to hear and decide objections to nomination papers.

8. Forms of nomination papers may be obtained at the town clerk's office; and the town clerk will, at the request of any enrolled burgess, fill up a nomination paper.

Dated this day of 18 .
A.B., Town Clerk.

FORM NO. 2.

NOMINATION PAPER.

Borough of . Election of Councillors, Auditors,
or Assessors for Ward in the said Borough
[or the said Borough], to be held on the
day of 18 .

We, the undersigned, being respectively enrolled bur-

gesses, hereby nominate the following person as a candidate at the said election.

Surname.	Other Names.	Abode.	Description.

(Signed) *A.B.* of*
C.D. of*

We, the undersigned, being respectively enrolled burgesses, do hereby assent to the nomination of the above person as a candidate at the said election.

Dated this day of 18 .

(Signed) *E.F.* of*
G.H. of*
I.J. of*
K.L. of*
M.N. of*
O.P. of*
Q.R. of*
S.T. of*

* The number on the burgess roll of the burgess subscribing, with the situation of the property in respect of which he is enrolled on the burgess roll.

FORM NO. 3.

BALLOT PAPER.

Form of Front of Ballot Paper.

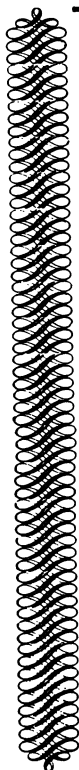
For Auditors.

Counter-
foil.

No.

NOTE :

The
counterfoil
is to have
a Number
to corres-
pond with
that on
the back
of the
Ballot
Paper.



1	CADE. (John Cade, of 22, Wellclose Place, Accountant.)
---	--

2	JOHNSON. (Charles Johnson, of 7, Albion Street, Gentleman.)
---	---

3	THOMPSON. (William Thompson, of 14, Queen Street, Silversmith.)
---	---

For Revising Assessor.

1	BACON. (Charles Bacon, of 29, New Street, Solicitor.)
---	---

2	BYRON. (James Byron, of 45, George St., Commission Agent.)
---	--

3	WILSON. (George Wilson, of 22, Hanover Square, Gentleman.)
---	--

Form of Back of Ballot Paper.

No. Election of Auditors [*or* Assessors] for the
 Borough of to be held on the day of
 18 .

The Number on the back of the Ballot Paper is to
 correspond with that on the Counterfoil.

SECOND SCHEDULE.

Session and Chapter.	Title of Act.	Extent of Repeal.
5 & 6 Will 4. c. 76.	An Act to provide for the regulation of Municipal Corporations in England and Wales.	So much of section 47 as relates to the fixing of the day of election by the alderman.
22 Vict. c. 35.	The Municipal Corporation Act, 1859.	Sections 5, 6, 7, and Schedules.
32 & 33 Vict. c. 55.	An Act to shorten the term of residence required as a qualification for the Municipal Franchise, and to make provision for other purposes.	Sections 6 and 7.
35 & 36 Vict. c. 33.	The Ballot Act, 1872 - -	Directions in the Schedule to the Act as to the form of nomination papers at Municipal Elections.

38 & 39 VICT. c. 84.

*An Act to regulate the Expenses and to control the
Charges of Returning Officers at Parliamentary
Elections.*

[13th August, 1875.]

The object of this Act is to render more uniform the charges of returning officers at parliamentary elections. The Act lays down a scale of maximum charges to be made by returning officers, enables them to demand security from candidates, and provides for taxation of their accounts on the application of any person from whom a payment is claimed.

WHEREAS it is expedient to amend the law relating to the expenses and charges of returning officers at parliamentary elections :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

I. The Ballot Act, 1872, as modified by this Act, and this Act shall be construed as one Act.

This Act shall apply only to parliamentary elections.

Construc-
tion of
Act.

Payments
to return-
ing offi-
cers.
p. 68.

II. The returning officer at an election shall be entitled to his reasonable charges, not exceeding the sums mentioned in the first schedule to this Act, in respect of services and expenses of the several kinds mentioned in the said schedule, which have been properly rendered or incurred by him for the purposes of the election.

The amount of such charges shall be paid by the candidates at the election in equal several shares, or where there is only one candidate, by such candidate. If a candidate is nominated without his consent, the persons by whom his nomination is subscribed shall be jointly and severally liable for the share of the charges for which he would be liable if he were nominated with his consent.

A returning officer shall not be entitled to payment for any other services or expenses, or at any greater rates than as in the said schedule mentioned, any law or usage to the contrary notwithstanding.

Returning
officer may
require de-
posit or
security.
p. 69.

III. The returning officer, if he think fit, may, as hereinafter provided, require security to be given for the charges which may become payable under the provisions of this Act in respect of any election.

The total amount of the security which may be required in respect of all the candidates at an election shall not in any case exceed the sums prescribed in the third schedule to this Act.

Where security is required by the returning officer it shall be apportioned and given as follows ; viz.,

- (1.) At the end of the two hours appointed for the election the returning officer shall forthwith declare the number of the candidates who then stand nominated, and shall, if there be more candidates nominated than there are vacancies to be filled up, apportion equally among them the total amount of the required security :
- (2.) Within one hour after the end of the two hours aforesaid, security shall be given, by or in respect of each candidate then standing nominated, for the amount so apportioned to him :

- (3.) If in the case of any candidate security is not given or tendered as herein mentioned, he shall be deemed to be withdrawn within the provisions of the Ballot Act, 1872 :
- (4.) A tender of security in respect of a candidate may be made by any person :
- (5.) Security may be given by deposit of any legal tender or of notes of any bank being commonly current in the county or borough for which the election is held, or, with the consent of the returning officer, in any other manner :
- (6.) The balance (if any) of a deposit beyond the amount to which the returning officer is entitled in respect of any candidate shall be repaid to the person or persons by whom the deposit was made.

IV. Within twenty-one days after the day on which the return is made of the persons elected at the election, the returning officer shall transmit to every candidate or other person from whom he claims payment either out of any deposit or otherwise of any charges in respect of the election, or to the agent for election expenses of any such candidate, a detailed account showing the amounts of all the charges claimed by the returning officer in respect of the election, and the share thereof which he claims from the person to whom the account is transmitted. He shall annex to the account a notice of the place where the vouchers relating to the account may be seen, and he shall at all reasonable times and without charge allow the person from whom payment is claimed, or any agent of such person, to inspect and take copies of the vouchers.

The accounts of a returning officer may be taxed.
p. 70.

The returning officer shall not be entitled to any charges which are not duly included in his account.

If the person from whom payment is claimed objects to any part of the claim, he may, at any time within fourteen days from the time when the account is transmitted to him, apply to the Court as defined

in this section for a taxation of the account, and the Court shall have jurisdiction to tax the account in such manner and at such time and place as the Court thinks fit, and finally to determine the amount payable to the returning officer and to give and enforce judgment for the same as if such judgment were a judgment in an action in such Court, and with or without costs at the discretion of the Court.

The Court for the purposes of this Act shall be in the city of London the Lord Mayor's Court, and elsewhere in England the County Court, and in Ireland the Civil Bill Court, having jurisdiction at the place of nomination for the election to which the proceedings relate.

The Court may depute any of its powers or duties under this Act to the registrar or other principal officer of the Court.

Nothing in this section shall apply to the charge of the returning officer for publication of accounts of election expenses.

Claims
against a
returning
officer.

p. 70.

V. Every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer for the purposes of an election, except for publication of accounts of election expenses, shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

Where application is made for taxation of the accounts of a returning officer, he may apply to the Court as defined in this Act to examine any claim transmitted to him by any person in pursuance of this section, and the Court after notice given to such person, and after hearing him, and any evidence tendered by him, may allow or disallow, or reduce the *claim objected to*, with or without costs, and the de-

termination of the Court shall be final for all purposes, and as against all persons.

VI. In any case to which the fourteenth section of the Ballot Act, 1872, is applicable, it shall be the duty of the returning officer, so far as is practicable, to make use of ballot boxes, fittings, and compartments provided for municipal or school board elections, and the Court, upon taxation of his accounts, shall have regard to the provisions of this section.

Use of ballot boxes, &c., provided for municipal elections. p. 27.

VII. There shall be added to every notice of election to be published under the provisions of the Ballot Act, 1872, the notification contained in the second schedule to this Act with respect to claims against returning officers.

Notices to be given by returning officers.

VIII. Nothing in this Act shall apply to an election for any university or combination of universities.

Saving of the universities.

IX. This Act shall come into operation on the first day of October one thousand eight hundred and seventy-five, and continue in force until the thirty-first day of December one thousand eight hundred and eighty, and no longer, unless Parliament shall otherwise determine.

Commencement and duration of Act.

X. This Act may be cited for all purposes as the "Parliamentary Elections (Returning Officers) Act, 1875."

Short title.

XI. This Act shall not apply to Scotland.

Not to apply to Scotland.

SCHEDULES.

FIRST SCHEDULE.

CHARGES OF RETURNING OFFICERS.

The following are the maximum charges to be made by the returning officer, but the charges are in no case to exceed the sums actually and necessarily paid or payable.

PART I.—COUNTIES AND DISTRICT OR CONTRIBUTORY BOROUGHES.

This Part of this Schedule applies to an election for a county, or for either of the boroughs of Aylesbury, Cricklade, Monmouth, East Retford, Stroud, and New Shoreham, or for any borough or burgh consisting of a combination of separate boroughs, burghs, or towns.

	£	s.	d.
For preparing and publishing the notice of election .	2	2	0
For preparing and supplying the nomination papers	1	1	0
For travelling to and from the place of nomination, or of declaring the poll at a contested election, per mile	0	1	0
For hire or necessary fitting up of rooms or buildings for polling, or damage or expenses by or for use of such rooms or buildings	The necessary expenses, not exceeding at any one polling station the charge for constructing and fitting a polling station.		
For constructing a polling station, with its fittings and compartments, in England	7	7	0
And in Ireland the sum or sums payable under the provisions of the 13th and 14th Victoria, chap. 68, and 35th and 36th Victoria, chap. 33.			
In Ireland the returning officer shall use a court house where one is available as a poll- ing station, and his maximum charge for using and fitting the same shall in no case exceed three pounds three shillings.			

	£	s.	d.
For each ballot box required to be purchased	1	1	0
For the use of each ballot box, when hired	0	5	0
For stationery at each polling station	0	10	0
For printing and providing ballot papers, per thousand	1	10	0
For each stamping instrument	0	10	0
For copies of the register	The sums payable by statute for the necessary copies (a).		
	3	3	0
For each presiding officer			
For one clerk at each polling station where not more than 500 voters are assigned to such station	1	1	0
For an additional clerk at a polling station for every number of 500 voters, or fraction thereof beyond the first 500 assigned to such polling station	1	1	0
For every person employed in counting votes, not exceeding six such persons where the number of registered electors does not exceed 3,000, and one for every additional 2,000 electors	1	1	0
For making the return to the Clerk of the Crown	1	1	0
For the preparation and publication of notices (other than the notice of election).	Not exceeding for the whole of such notices 20 <i>l.</i> , and 1 <i>l.</i> for every additional 1,000 electors above 3,000.		
	0	1	0
For conveyance of ballot boxes from the polling stations to the place where the ballot papers are to be counted, per mile	In a contested election not exceeding 25 <i>l.</i> , and an additional 3 <i>l.</i> for every 1,000 registered electors or fraction thereof above 3,000 and up to 10,000, and 2 <i>l.</i> for every 1,000 or fraction thereof above 10,000. In an uncontested election, one fifth of the above sums.		
For professional and other assistance in and about the conduct of the election.			
	0	1	0
For travelling expenses of presiding officers and clerks, per mile			
For services and expenses in relation to receiving and publishing accounts of election expenses, in respect of each candidate	2	2	0

(a) See 6 Vict. c. 18, s. 49.

For all other expenses	In a contested election, not exceeding 10 <i>l.</i> , and an additional 1 <i>l.</i> for every 1,000 electors or fraction thereof above 1,000. In an uncontested election, nil.
----------------------------------	--

NOTE.—Travelling expenses are not to be allowed in the case of any person unless for distances exceeding two miles from the place at which he resides.

PART II.—BOROUGHES.

This Part of the Schedule applies to all boroughs not included in Part I. of this Schedule.

	£	s.	d.
For preparing and publishing the notice of election	2	2	0
For preparing and supplying the nomination papers	1	1	0
For hire or necessary fitting up of rooms or buildings for polling, or damage or expenses by or for use of such rooms or buildings.	The necessary expenses, not exceeding at any one polling station the charge for constructing and fitting a polling station.		
In England, for constructing a polling station, with its fittings and compartments, not exceeding two in number	1	1	0
For each compartment required to be constructed, when more than two be used	7	7	0
For the use of each compartment hired, when more than two are used	0	5	0
And in Ireland, in lieu of the charges payable in respect of the foregoing last three services the sum or sums payable under the provisions of 13th and 14th Victoria, chap. 68, and 35th and 36th Victoria, chap. 33,			
For each ballot box required to be purchased	1	1	0
For the use of each ballot box, when hired.	0	5	0
For stationery at each polling station	0	10	0
For printing and providing ballot papers, per thousand	1	10	0
For each stamping instrument	0	10	0
For copies of the register	The sums payable by statute for the necessary copies (a).		

(a) See 6 Vict. c. 18, s. 49.

	£	s.	d.
For each presiding officer	3	3	0
For one clerk at each polling station where not more than 500 voters are assigned to such station . .	1	1	0
For an additional clerk at a polling station for every number of 500 voters, or fraction thereof beyond the first 500 assigned to such station	1	1	0
For every person employed in counting votes, not exceeding six such persons where the number of registered electors does not exceed 3,000, and one for every additional 2,000 electors	1	1	0
For making the return to the Clerk of the Crown .	1	1	0
For the preparation and publication of notices (other than the notice of election).	Not exceeding for the whole of such notices 10 <i>l.</i> , and 1 <i>l.</i> for every additional 1,000 electors above 1,000.		
For professional and other assistance in and about the conduct of the election.	In a contested election, not exceeding 20 <i>l.</i> , an additional 2 <i>l.</i> for every 1,000 registered electors or fraction thereof above 1,000 and up to 10,000, and 1 <i>l.</i> additional for every 1,000 or fraction thereof above 10,000. In an uncontested election one fifth of the above sum.		
For services and expenses in relation to receiving and publishing accounts of election expenses, in respect of each candidate	1	1	0
For all other expenses	Not exceeding 10 <i>l.</i> , and an additional 1 <i>l.</i> for every 1,000 electors above the first 1,000.		

NOTE TO PARTS I AND II. OF SCHEDULE I.

The above sums are the aggregate charges, the amount of which is to be apportioned among the several candidates or other persons liable for the same.

SECOND SCHEDULE.

1. NOTIFICATION TO BE ADDED TO THE NOTICE OF ELECTION.

Take notice, that by the Parliamentary Elections (Returning Officers) Act, 1875, it is provided that every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer, for the purposes of an election (except for publications on account of election expenses), shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

THIRD SCHEDULE.

MAXIMUM AMOUNT OF SECURITY WHICH MAY BE REQUIRED BY A RETURNING OFFICER.

	County or District of Contributory Borough.	Borough.
	£	£
Where the registered electors do not exceed 1,000.	150	100
Where the registered electors exceed 1,000 but do not exceed 2,000.	200	150
Where the registered electors exceed 2,000 but do not exceed 4,000.	275	200
Where the registered electors exceed 4,000 but do not exceed 7,000.	400	250
Where the registered electors exceed 7,000 but do not exceed 10,000.	550	300
Where the registered electors exceed 10,000 but do not exceed 15,000.	700	450
Where the registered electors exceed 15,000 but do not exceed 20,000.	800	500
Where the registered electors exceed 20,000 but do not exceed 30,000.	900	600
Where the registered electors exceed 30,000 .	1,000	700

If at the end of the two hours appointed for the election, not more candidates stand nominated than there are vacancies to be filled up, the maximum amount which may be required is one-fifth of the maximum according to the above scale.

APPENDIX II.

ABSTRACT* OF THE PRINCIPAL PROVISIONS OF THE BALLOT ACT, 1872, FOR THE INFORMATION OF RE- TURNING OFFICERS AT PARLIAMENTARY AND MUNI- CIPAL ELECTIONS IN ENGLAND AND WALES.

THE object of the following abstract is to inform returning officers of the alterations that have been made in their duties by the Ballot Act, a copy of which is sent herewith. The abstract does not relate to so much of the previous law as remains unaltered, and will not relieve returning officers from the necessity of making themselves intimately acquainted with the provisions of the Act itself. The abstract cannot in any way override the directions of the Act, and must not be considered as an authoritative interpretation of it.

The paragraphs of the abstract are numbered for facility of reference. The sections and rules referred to are the sections of the Ballot Act and the rules contained in the first schedule to that Act.

As this Act is now in force, every election, whether parliamentary or municipal, held to supply a casual vacancy, must be conducted in accordance with its provisions.

The attention of each returning officer is therefore specially directed to paragraphs 7 and 18, in order that he may be prepared for any such election.

Home Office, Whitehall,
24th July, 1872.

H. A. BRUCE.

I.—PARLIAMENTARY ELECTIONS.

Preliminary.

Notices.

All notices required by the Act may be given by advertisements, placards, or in some similar manner (rule 46).

* Similar abstracts, *mutatis mutandis*, have been issued to returning officers in Scotland and Ireland.

Nomination.

2. In the Act the term "election" applies to elections which, not being contested, are completed at the time of nomination, as well as to elections which, being contested, are decided by a poll. Meaning of "election,"

3. A separate writ will be sent for each electoral division of a county, and the sheriff may appoint by writing a deputy to act as returning officer for all or any of the purposes of the election in such electoral division (s. 8). Deputy returning officers. Sect. 8.

4. A time table, showing the limits of time allowed for the different stages in an election, is appended in a schedule to these instructions. Times of nomination and poll.

5. The returning officer will, within the time limited by rule 1, give notice between 9 a.m. and 4 p.m. of the several particulars specified in rule 1. For this purpose he must fix the time and place of nomination (rules 2, 3, 4), the time and place at which forms of nomination papers will be supplied (rule 7), and the day of the poll (rule 14). In the case of a county election notices are also to be sent by post. (See rule 1.) Notice of election, Rule 1.

The form of the notice is given in the second schedule.

The old proclamation, and the holding of a county court for the purposes of a county election are abolished.

6. The time and place of nomination are to be fixed by the returning officer in accordance with rule 2. It will be observed that the place of nomination is to be a room, and that no hustings will be required. Time and place of nomination. Rules 2, 3, and 4.

7. In the interval between the day of giving notice and the day of nomination, the returning officer is required to supply printed forms of nomination papers to electors during such two hours between 10 a.m. and 2 p.m. on each day as he may fix. He must therefore provide such forms as soon as possible after the receipt of the writ. Supply of nomination papers. Rule 7.

The form will be found in the second schedule.

8. On the day appointed for the nomination, the returning officer must attend at the appointed place during the two hours fixed for the nomination, in order to receive nominations, and for one hour afterwards in order to receive objections. No oath is now required to be taken by the returning officer. Attendance on day of nomination. Rule 4.

9. The only persons entitled to attend the proceedings at the time of nomination, except for the purpose of assisting the returning officer, are the returning officer and the Persons entitled to attend at

nomination.

Rule 8.

Form of nomination paper. Sect. 1, rules, 5, 6, 7.

Objections to validity of nomination.

Rules 6, 12, 13.

candidate nominated by each nomination paper, with his proposer and seconder, and one other person selected by the candidate.

10. The returning officer will take care that the nomination paper is in the proper form and is properly signed and delivered in accordance with section 1 and rules 5, 6, and 7. The use of a form supplied by the returning officer, however advisable, is not obligatory, provided that the form prescribed in the Act is followed (rule 7).

11. The objections which may be made to the validity of a nomination paper are of two kinds:—

(1.) Objections under rule 6, which must be made immediately on the delivery of the nomination paper to the returning officer:

(2.) Objections under rule 12, which must be made either during the time appointed for the nomination or within one hour afterwards.

The returning officer is to determine the validity of any objection (rule 13), but he will bear in mind that the making or allowing trivial objections may lead to the delay and expense of a petition.

12. Immediately after each nomination paper has been delivered to the returning officer, notice of the nomination is to be placarded outside the building.

13. A candidate once nominated, unless nominated in his absence from the United Kingdom, can only withdraw from his candidature by delivering to the returning officer, *during the time appointed for the nomination*, a notice of withdrawal signed by himself.

14. If at the expiration of one hour after the time appointed for the nomination the number of candidates who have been duly nominated and not withdrawn does not exceed the number of vacancies to be filled up, the returning officer is forthwith to declare the candidates so duly nominated to be elected, to give public notice of the names of the candidates elected (rules 45, 46), and to return their names to the Clerk of the Crown in Chancery (s. 1, rule 44). This notice must also state the names of any candidates who may have withdrawn, and the names of the subscribers to their nomination papers (rule 10). The return is to be made by a certificate endorsed on the writ, and may be sent by post (rule 44). The indenture by which the return was formerly made is abolished.

15. If at the expiration of one hour after the time appointed for the nomination the number of the candidates who have been duly nominated, and not withdrawn,

Notice of nomination.

Rule 11.

Withdrawal of nomination.

Sect. 1.

Uncontested election.

Sect. 1, rules 43, 44, 45.

Contested election. Sect. 1,

exceeds the number of vacancies to be filled up, the returning officer is to adjourn the election and to give public notice of the particulars specified in rules 9, 10. In the case of a county election the notice must also be given to the postmaster to be telegraphed (rule 9).

rules 9,
46.

16. If a candidate dies in the interval after the adjournment of the election and before the poll has commenced, notice of the poll is to be countermanded and the proceedings commenced afresh (s. 1).

Proceed-
ings in
case of
death of
candidate.

The Poll.

17. In cases where a poll is required, the returning officer must, immediately after the adjournment of the election, give public notice of the matters specified in rule 19. The form of directions as to the mode in which electors are to vote is given in the second schedule, and must be placarded outside every polling station, and in every compartment of every polling station, and illustrated by examples of the ballot paper.

Notice of
poll.
Rule 19.

18. In the event of a poll being required, the first business of the returning officer will be to provide polling stations, appoint presiding officers and clerks for each polling station, and provide a sufficient supply of ballot boxes, ballot papers, materials for marking ballot papers, stamping instruments, and copies of the register of voters. He must also, as under the previous law (6 Vict. c. 18, s. 90), provide a sufficient number of constables to attend in each polling station.

Prepara-
tions for
poll.

19. The office of a presiding officer is equivalent to that of a deputy returning officer under the previous law (s. 10). There is to be one presiding officer for each polling station (rule 21), but the returning officer himself may act as a presiding officer (rule 47), and no doubt will do so when there is only one polling station. The returning officer may appoint clerks to assist the presiding officer at each station (s. 8, rule 48), but he will of course not do so where the number of voters at a station is small. A presiding officer or clerk must not have been employed in or about the election (rule 49), and must not act by himself, his partner, or clerk, as an agent for the candidate (s. 11).

Presiding
officer.

20. The returning officer must provide each polling place with at least one polling station under a separate presiding officer (rule 15), and must furnish each polling

Polling
Stations.

station with such number of compartments as allows one compartment to every one hundred and fifty persons entitled to vote at the station (rule 16).

“Polling place” in the case of a county means some town or village at which the electors of a polling district are to poll; and in the case of a borough, means the particular spot in each borough or polling district of a borough which the returning officer under the previous law has power to fix as the place at which the votes are to be taken (rule 57). The term “district borough” in rule 15 is explained in rule 57.

The polling station may be either in a room or a booth, but s. 37 of 30 & 31 Vict. c. 102 directs that a room is to be used where practicable. Under s. 6 any room in a school receiving an annual grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any local rate, may be taken compulsorily, and used free of charge, for the purpose of a polling station, subject to the necessity of making good any damage actually done, and of defraying any expenses actually incurred by the persons having control over the room taken on account of its being so taken. Care will of course be taken to interfere as little as practicable with the ordinary use of the room, and to use all possible speed in erecting and taking away the necessary fittings. More than one polling station may, if necessary, be fitted up in the same room (rule 17).

Construc-
tion of
polling
stations.

21. Care must be taken that the partitions dividing the compartments in the polling stations are sufficient to effectually screen the voter from observation (rule 16). It may be found advantageous that each polling station should contain on one side the seats of the presiding officer and his clerks, and of the personation agents entitled to attend, and on the other side the compartments into which the voters are to retire in order to mark their votes. It will be convenient so to arrange the room that voters who have marked their papers can reach the ballot box and leave the station without meeting the fresh voters who are entering the station.

Ballot box.

22. The ballot box must be constructed so that ballot papers can be introduced therein, and not withdrawn without unlocking the box (rule 23). Care should be taken that the ballot box is of adequate size, so that it will not be choked by papers, and that it is of sufficient strength to enable it to be carried about with safety. *Ballot boxes* provided for municipal elections may be

used, free of charge, for parliamentary elections, and *vice versa* (s. 14).

23. The ballot papers must be printed strictly in accordance with rule 22, and with the form in the Second Schedule. Ballot papers.

The names of those candidates only who have been duly nominated and not withdrawn can be printed on the ballot papers (rule 12). Ballot papers of a different colour must be provided for "tendered votes" (rule 27). Every ballot paper must have a counterfoil, and must be numbered on the back with a number corresponding to that on the face of the counterfoil (s. 2). As the object of the numbering is to make it possible to ascertain how votes have been given in the event of a scrutiny, all the ballot papers in any one election, at whatever station they are used, ought to be numbered in a continuous series. The ballot papers and counterfoils should be bound up in books like ordinary cheque or receipt books.

Care must be taken that no ballot paper is supplied to any presiding officer except by the returning officer, or to any other person except by the presiding officer in the station at the time of voting, in accordance with the Act (see penalties in s. 3).

The returning officer must keep accounts of the number of ballot papers supplied to each presiding officer (see paragraph 47).

24. The official mark to be stamped on the ballot paper is to be kept secret (rule 20). As the mark is to be visible on both sides of the paper, s. 2, rule 24) a perforating or embossing stamp should be used. Stamping instruments.

25. Each compartment in the polling station should be supplied with pencils for voters to mark the ballot papers (rule 20, and see directions in Second Schedule). Writing materials.

26. Each polling station must be supplied with a copy of the register of voters or such part thereof as contains the names of the voters allotted to vote at that station (rule 20). Register books.

27. Before the opening of the poll the returning officer, and every officer, clerk, and agent authorised to attend at the polling station or at the counting of the votes must make a declaration of secrecy in the form provided in the Second Schedule (rule 54). The person administering this declaration must, before it is taken, read over s. 4 of the Act to the declarant. All other oaths are abolished (rule 54). Declaration of secrecy.

28. The only persons entitled to attend at the polling

Persons entitled to attend at the polling stations.

stations are the presiding officer, the personation agents, of whose appointment notice has been given in accordance with 6 & 7 Vict. c. 18, s. 85 (see rule 57), or with rule 56, the candidates themselves if they wish (rule 51), and the constables on duty. Check-clerks and the commissioners who might have been appointed to administer oaths under 34 Geo. 3, c. 73, and 42 Geo. 3, c. 62, are abolished (see repeals in Third Schedule).

Commencement of poll.

29. The hours of the poll remain unaltered. Just before the commencement of the poll the presiding officer at each polling station is to show the ballot box, empty, to such persons as may be present, and then to lock it up and seal it (rule 23). He should then place it near him, and keep it in his view.

Powers and duties of presiding officers during poll.

30. The presiding officer has all the powers of a deputy returning officer under the previous law (s. 10). He has power to ask the authorised questions and administer the authorised oaths (s. 10). The presiding officer may delegate to his clerks any of his powers, except that of ordering the arrest, exclusion, or ejection of any person (rule 50). The attention of each presiding officer will have been particularly directed by his declaration of secrecy to the provisions of s. 4, and should be directed to the powers of maintaining order conferred by s. 9. It will be his duty to see that secrecy of voting is strictly maintained, to prevent unauthorised persons from entering the station, to direct the constables on duty only to admit a limited number of voters at any one time (rule 21), and to see that each voter votes secretly in accordance with the Act, and without undue delay, and leaves the station immediately after giving his vote (rule 25).

Functions of personation agents.

31. Candidates may appoint agents for the purpose of detecting personation (6 & 7 Vict. c. 18, s. 85), an offence the definition of which is extended by s. 24. These agents are also entitled under rule 26 to be present at the voting of illiterate voters. They are to take the same declaration of secrecy as the presiding officer (rule 54), and are expressly prohibited from interfering with the voters or applicants for ballot papers, from attempting to look at the ballot papers or obtaining information as to how any vote is given, and then communicating to any person any information about any vote or the number of any ballot paper (s. 4). It will be the duty of the presiding officer to see that the agents conform to the directions of the Act, and to remove them if they misconduct themselves (s. 9).

32. The mode of voting in ordinary cases is described in s. 2, in rules 24 and 25, and in the directions contained in the Second Schedule. The result is as follows :—

Mode of
voting.

When the voter comes up to vote, the presiding officer or his clerk (see rule 50) will ascertain that he is entitled to vote at that particular station (rule 18), he will then mark one of the official ballot papers with the official mark, so that it be visible on both sides; call out the number, name, and description of the voter, as stated in the copy of the register; enter such number on the counterfoil of the ballot paper; place against the number of the voter in the register a tick, which will denote that the voter has received a ballot paper, but will not denote the particular ballot paper which he has received; and will then deliver the ballot paper to the voter.

The old law as to the questions which may be asked of the voter, and the oath which may be administered to him, remains unaltered.

The voter having received his ballot paper is to proceed at once to one of the compartments, is there secretly to mark his ballot paper, and fold it up so as to conceal the mark or marks which he has made, and so as to leave the official mark visible on the back, and to take it so folded, without showing the front of the paper to any person, to the presiding officer himself (not to a clerk, see s. 2), show him the official mark, place the ballot paper at once in the ballot box, and immediately leave the station.

The presiding officer must take care that no person interferes with the voter while he is giving his vote, puts into the ballot box any paper which has not the official mark on the back, takes a ballot paper out of the station, or otherwise infringes the provisions of sections 3 and 4. If any person attempt to put into the ballot box any ballot paper which has not the official mark on the back, or to take any ballot paper out of the station, or in any other way to infringe the provisions of sections 3 or 4, the presiding officer should order him to be arrested, or at all events removed (see sections 3 and 9).

33. If a voter accidentally spoils a ballot paper he may return it to be cancelled, and may be given another (rule 28).

Spoilt
votes.

34. In three cases only is the ballot paper allowed to be marked by any person other than the voter himself, and then only by the presiding officer. These are—

Mode of
voting in
exceptional
cases.

- (1.) Persons incapacitated by blindness or any other physical cause;

Rule 26.

(2.) Jews, if the polling takes place on a Saturday and they object on religious grounds to mark their votes; and

(3.) Persons unable to read.

If a voter declares that he is unable to read, he must make before the presiding officer a declaration of inability to read in the form prescribed in the second schedule. This declaration must be read by the presiding officer to the voter, signed by the voter with his mark in the presence of the presiding officer, attested by the presiding officer, and kept by him to be sent to the returning officer (see rule 38).

In any of these three cases the presiding officer, or one of his clerks, is, in the presence of the personation agents, if they are in attendance (see rule 55), to mark a ballot paper in the way directed by the voter, place it in the ballot box, and enter the name and number of the voter on a list headed "the list of votes marked by presiding officer," mentioning in such list the reason why the vote has been so marked (rule 26).

It must be remembered that the declaration of secrecy and the penalties under section 4 apply to votes given under these circumstances.

Tendered
votes.

35. The mode of tendering a vote where a person claims to vote after another person has already voted in his name, is prescribed by rule 27. The register is now made conclusive by section 7, and therefore no vote can be tendered, except in the case of personation.

Proceed-
ings at
close of
poll.

36. The presiding officer is not allowed to open the ballot box, which, under section 2, is, at the close of the poll, to be sealed up so as to prevent the introduction of additional ballot papers.

As soon as practicable after the close of the poll, the presiding officer is, in the presence of the personation agents, if any are in attendance, to make up into separate packets the ballot box and the several papers there mentioned, seal the packets with his own seal, and allow the agents, if they wish, to affix their seals, and then, unless he is himself the returning officer, to deliver the several packets, together with the ballot paper account mentioned in rule 30, to the returning officer (rule 29). Care should be taken that the several classes of documents mentioned in the different paragraphs of rule 29, are made up in separate packets, as only some of them are allowed to be subsequently opened by the returning officer.

Counting Votes.

37. The returning officer is to count the votes as soon as practicable after the close of the poll (rule 32). Time of counting.

38. The candidates are allowed to appoint agents to attend at the counting, but they must give the returning officer notice of the name and address of each agent one clear day before the opening of the poll (rules 31, 52). Agents.

39. The returning officer is to give notice to the agents of the time and place of the counting of votes (rules 32, 52). Notice to agents.

40. The returning officer may, in addition to any clerks, appoint competent persons to assist in counting (rule 48). Assistants and clerks.

41. The persons entitled to be present at the counting are the returning officer, his assistants and clerks, the candidates (rule 50), and the duly appointed agents of the candidates. No one else is entitled to be present, except with the sanction of the returning officer. It is obvious that this sanction ought not to be given except for the purpose of assisting the returning officer in the counting. All officers, clerks, and agents authorised to attend at the counting must take the declaration of secrecy (rule 54). Persons entitled to attend.
Rules 31, 33, 51, 52.

42. Before beginning to count the votes the returning officer is to open the ballot boxes, count and record the number of papers in each box, so as to check any attempt at fraud, and then mix all the ballot papers together in such a way that it may not be known which papers came out of any particular ballot box (rule 34). Process of counting.

Directions as to counting the votes will be found in rule 35. In counting and recording the number of the ballot papers, and also in counting the votes, the returning officer must take care to keep the ballot papers with their faces upwards, and must take all proper precautions to prevent any person from seeing the numbers printed on the backs of the papers (rule 34).

Provisions are contained in s. 4 as to secrecy at the counting of the votes as well as at the proceedings at the poll.

43. Any ballot paper which has not the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything except the number printed on the back is written or marked by which the voter can be identified, is to be void and not counted (s. 2). Decision as to the validity of votes.

The power of deciding on the validity of votes rests with the returning officer alone, and cannot be delegated (section 2). The returning officer is to mark "Rejected" on any ballot paper which he may reject as invalid, and to add "Rejection objected to" if an objection be in fact made by any agent to his decision. The rejected votes are to be classified under different heads (rule 36). If a vote is rejected on any other ground than those specified in rule 36, it must be entered under a special head. The returning officer is to make out a report of the rejected papers so classified.

Vote of
returning
officer.

44. The returning officer is prohibited from voting except in the case mentioned in section 2. In a case of equality of votes, if he cannot vote he must make a double return.

Declara-
tion of
poll and
return of
writ.

45. As soon as the result of the poll is ascertained, the returning officer is to declare elected the candidate or candidates for whom the majority of votes have been given, and to return their names to the Clerk of the Crown in Chancery (s. 2). The return is to be made by a certificate endorsed on the writ (rule 44), and may be sent by post. The indenture by which the return was formerly made is abolished.

Notice of
election.

46. Public notice of the names of the candidates elected and of the total number of votes given for each candidate, is to be given as soon as possible (rules 45, 46).

Proceed-
ings at
close of
counting.
Rules 37,
38.

47. Upon the completion of the counting, the returning officer is to seal up in separate packets the counted and rejected ballot papers. He is not to open the packets containing tendered ballot papers, marked copy of register of voters, or counterfoils, but he is, in the presence of the agents, to verify the ballot paper account in manner directed by rule 37, so as to see that all the ballot papers are accounted for, and that no wrong papers have been introduced, and to make out a report of the result of such verification. The returning officer will finally forward to the Clerk of the Crown in Chancery, as the poll books used to be forwarded (see 6 Vict. c. 18, s. 93), his reports made up into a packet and the several packets mentioned in rule 38, taking care to endorse on each packet the description of its contents, the date of the election to which they relate, and the name of the county or borough for which such election was held (rule 38).

Expenses of Election.

*Expenses
of election.*

48. The necessary expenses of the election will, if pro-

perly incurred, be payable as heretofore by the candidates (s. 8). The enactment (2 & 3 Will. 4, c. 45, s. 71) which formerly fixed the amount payable to deputy returning officers and poll clerks has been repealed (*a*). The enactments requiring an indenture for the purpose of the return have been repealed, and by 7 & 8 Will. 3, c. 25, s. 2, a returning officer is prohibited, under a penalty of 500*l.*, from taking any fee or reward for the receipt, return or execution of any writ.

II.—MUNICIPAL ELECTIONS.

49. The provisions of the former law with respect to the nomination at municipal elections remain unaltered, except that the form of nomination paper is to be similar to that contained in the second schedule (*b*).

The above instructions with respect to parliamentary elections apply to municipal elections, subject to the modifications mentioned in sections 20, 21, and rule 64.

The most important of these modifications are as follows:—

- (1.) The returning officer is to be the mayor or other person who under the old law presided at the election.
- (2.) The mayor is to provide the polling stations, ballot boxes, stamping instruments, and other necessities.
- (3.) The day of the poll is not changed by the Act.
- (4.) There is no power to take a room compulsorily.
- (5.) There is no provision made for the appointment of any agents for the candidates.
- (6.) No alteration is made with respect to the Burgess roll or ward list.
- (7.) The casting vote of the returning officer is left to the old law.
- (8.) No return is required to be made to the Clerk of the Crown, and all ballot papers and documents which in the case of a parliamentary election are sent to the Clerk of the Crown are to be delivered to the town clerk.

Applica-
tion of
Act to
municipal
elections,
ss. 20, 21,
rule 64.

(*a*) See now the Parl. El. (Returning Officers) Act, 1875, in App. I., *supra*.

(*b*) See now c. ii. of the Introduction, and the Mun. El. Act, 1875, in App. I., *supra*.

(9.) The expenses of the election will be defrayed as under the old law.

By section 21 ward assessors are abolished, and the assessors need not be present at elections held before the mayor, but assessors must still be elected for the purpose of the revision of the burgess list.

SCHEDULE (a).

PARLIAMENTARY ELECTIONS.

TIMES FOR NOMINATION AND POLL.

COUNTIES.

(Say) July	1.	Receipt of writ.
"	2.	"
"	3.	Last possible day for notice.
"	4.	"
"	5.	First possible day for nomination.
"	6.	"
"	7.	"
"	8.	First possible day for poll.
"	9.	"
"	10.	Last possible day for nomination.
"	11.	"
"	12.	"
"	13.	"
"	14.	"
"	15.	"
"	16.	"
"	17.	Last possible day for poll.

BOROUGHES.

(Say) July	1.	Receipt of writ.
"	2.	Last possible day for notice.
"	3.	"
"	4.	First possible day for nomination in ordinary boroughs.

(a) The schedule appended to the abstract originally issued contained two or three inaccuracies, in the part relating to boroughs, which are here corrected.

- | | | |
|---------|---|--|
| July 5. | { | Last possible day for nomination and first possible day for poll in ordinary boroughs. |
| | | First possible day for nomination in district boroughs. |
| „ 6. | | |
| „ 7. | | |
| „ 8. | | First possible day for poll in district boroughs. |
| „ 9. | | Last possible day for poll in ordinary boroughs. |
| „ 10. | | Last possible day for nomination in district boroughs. |
| „ 11. | | |
| „ 12. | | |
| „ 13. | | |
| „ 14. | | |
| „ 15. | | |
| „ 16. | | |
| „ 17. | | Last possible day for poll in district boroughs. |

N.B.—Sundays, Christmas Day, Good Friday, and any public fast or thanksgiving day are not counted (see rule 56).

APPENDIX III.

SUMMARY OF THE WESTMINSTER ELECTION, FEBRUARY, 1874 (a).

THE writ for the election of two members for the city of Westminster was delivered to the returning officer on the 27th of January.

Public notice of the time and place of election (nomination), and of the other particulars of which by rule 1, public notice is required, was given by means of advertisements in the daily papers and by placards, between the 28th and 31st January.

On the day of election (nomination), January 31st, four candidates were duly nominated. Their names are given as inserted in the nomination papers.

	Surname.	Other Names.	Abode.	Rank, Profession, or Occupation.
1	Buxton . .	Thomas Powell	14, Grosvenor Crescent.	Baronet.
2	Codrington .	William John	110, Eaton Sq., Middlesex	General in the Army, Kt., G.C.B.
3	Russell . .	Charles	45, St. James's Place, St. James's Sq., S.W.	Baronet.
4	Smith . . .	William Henry	2, Hyde Park Street, W.	Esquire.

(a) This summary is inserted through the kindness of the returning officer, William James Farrer, Esq., High Bailiff of West-

Accordingly, the returning officer adjourned the election and proceeded to give public notice in manner already described of the day of the poll (which he fixed for February 5th), and of the other particulars mentioned in rule 9; also to publish the names and addresses of the agents appointed in pursuance of 26 & 27 Vict. c. 29, for the payment of election expenses.

The Staff appointed for the purpose of the election consisted of fifteen presiding officers and 87 clerks, with a messenger, besides 71 constables. A printed circular of instructions was sent to each presiding officer and clerk.

The clerks received notice from the returning officer to attend before him between 3 and 6 p.m. on the 3rd February for the purpose of making their Declarations of Secrecy. The presiding officers as well as the agents appointed by the candidates also received notice to attend between 3 and 6 p.m., on February 4th, for the same purpose (a).

Each agent was furnished with a card of admission to the polling station to which he had been appointed. Each presiding officer on attending was furnished with the exact sum required to pay the clerks in his station, who were accordingly all paid on the close of the poll.

There are 19,845 electors on the register for the city of Westminster, and ten polling districts. The largest polling district ("The St. George's Out Ward"), contains 3,654 electors: the smallest ("The St. Margaret's, Knightsbridge Division") contains 544 electors.

At four polling places two polling stations were provided, at the remainder, one. Seven of the polling places were schoolrooms, the remainder were vestry halls or some similar public room.

The greatest number of electors allotted to vote at a station was 1942, the smallest was 544.

The compartments in which the electors were to mark minster. It illustrates all the duties of a returning officer at a contested election for a large constituency—especially arrangements for taking the poll and counting votes, which proved extremely complete and efficient.

(a) The time allowed was hardly sufficient. The declarations of presiding officers and clerks should be taken two days previous to the polling, and those of agents on the day previous. This plan enables the returning officer to supply the places of any clerks who fail to attend. Candidates ought to give twenty-four hours' notice at least to the returning officer of the names and addresses of their agents.

their votes were constructed along one side of the station, each containing a rough desk, with a chalk pencil securely attached to it. A long table ran parallel with the compartments, at which, facing the compartments, sat the clerks, whose duty it was to issue ballot papers, while behind them stood the personation agents. A lever stamping instrument was provided for every second clerk.

The seat of the presiding officer was nearly opposite to the entrance, commanding a view of the whole room; the ballot box (an ordinary deal box, two feet five inches deep) being placed close to him.

A single compartment, double the width of the others, for the use of electors who required their votes to be marked by the presiding officer, was provided on his right hand or behind him. The reserve clerk marked these votes, and thus the attention of the presiding officer was never withdrawn from his ballot box.

From two to six ordinary clerks and a reserve clerk were assigned to each presiding officer; and one or two constables inside a station, with two at the entrance to regulate the admission of electors, were found sufficient.

On the evening preceding the day of the poll each presiding officer received a packet containing:—

List of Poll Clerks appointed to his station, showing the electors allotted to each clerk.

Signed copy of register for presiding officer.

Forms of declarations of inability to read.

Forms of questions and oath.

Tendered votes list.

Form for list of votes marked by presiding officer.

Form for ballot paper account.

Endorsed envelopes for above.

Copies of portion of register (one for each clerk) (a).

Books of ballot papers (one for each clerk).

Ditto ditto. for tendered votes (ditto ditto).

Stamping instruments.

Ballot Act.

(a) *I.e.* of the portion containing the names of the electors allotted to poll at the station. This portion was divided so as to assign about the same number of electors to each clerk. In front of each clerk a notice was suspended thus—(say) “A. to C. —13,243 to 13,558—householders,” (the letters being the initial letters of the surname, and the figures referring to the numbers of the electors on the register).

Two Testaments.

Pentateuch.

Stationery.

Taper, sealing wax, and vestas.

Tape and twine.

The polling was conducted without hitch or difficulty of any kind, and it was found that a presiding officer, assisted by six clerks, could easily receive the votes of one thousand electors, or rather more, at one station, between the hours of 8 and 4.

On the close of the poll, the presiding officers made up the packets of unused ballot papers, &c., as required by the Ballot Act, and proceeded with the said packets and their ballot boxes to the Westminster Palace Hotel—the place appointed for the counting of the votes.

The counting of the ballot papers commenced about 5.30 p.m., and was thus conducted. The papers from each station were counted at a separate table by the presiding officer of another station. The box containing the papers to be counted was placed at one end of the table, and an empty box at the other end. On one side of the table sat the presiding officer, with a clerk on each side of him, and an agent for each candidate facing them. One of the clerks took out the papers and passed them singly to the presiding officer, who counted them and passed them to the second clerk, the agents checking the enumeration. When 50 had been counted he placed them in the empty box, and so on.

The counting of the papers was concluded about 7 p.m., and the whole of the papers were then mixed together in one large box provided for the purpose.

The counting of the *votes* commenced at 10 a.m. the next day, an hour being occupied in preliminary arrangements but the experience acquired would at any future election obviate this delay. The same plan of a number of separate tables with a presiding officer at each was followed. A clerk sat at one end of each table with a box containing a number of papers on his right hand. Next to him on one side sat an agent for each candidate, next to him the presiding officer, and beyond him a second clerk (*a*), with an empty box by his side. A third clerk on the other side of the table faced the presiding officer. As the

(*a*) This clerk might be dispensed with if the second box is so placed as to be completely under the eye and control of the presiding officer.

papers were drawn out by the first clerk (a), they were passed across the agents so that the agents had a full view, to the presiding officer, who called out the name or names of the candidate or candidates voted for, and then passed the paper to the second clerk to be deposited in the box. A sufficient number of sheets (foolscap size), numbered consecutively, and ruled perpendicularly in four columns (one for each candidate) (b), and horizontally with 20 lines, so as to present under the name of each candidate 20 squares, were issued to each presiding officer. These, after being signed by him, were handed singly to the third clerk. As the presiding officer called out the name or names, the third clerk made a stroke in one of the squares under the name called out, and when four strokes had been thus recorded, the fifth was marked thus ++++. So that a glance shewed a full column to record 100 votes. As soon as a column was filled a fresh sheet was signed and given to the clerk, and so on.

If a paper was unmarked, or wanted the official mark, or was so marked as to identify the voter, or to be uncertain, or, if a paper, though not palpably bad, was objected to by an agent, the presiding officer laid it aside. The papers so laid aside, and the sheets of recorded votes, were from time to time collected by a clerk, who perambulated the room for that purpose.

No other person was allowed to move about the room except these collecting clerks, and (of course) the returning officer.

The returning officer, with the principal agents of the candidates, sat at a table at the head of the room, and decided on the validity of the papers brought to him. The sheets of recorded votes were delivered by the two collecting clerks to a staff of counting clerks at another table, who cast up and added the totals on each sheet, checked by agents.

The total number of the staff employed was fifty, and the number of votes recorded by the four candidates was 26,236. The number of rejected papers was 78. The objections were about 400.

(a) It was found convenient to take a large bundle of papers at one time out of the box and sort them before they were passed over to the presiding officer.

(b) The addition of votes would be facilitated still more by the use of a separate book for each candidate, so that each column would always contain 100 votes.

The work was completed soon after midday, and the result made known by the returning officer in the room, and then placarded on the Guildhall in Broad Sanctuary (a).

Finally, the writ endorsed by the returning officer, with a certificate of the return, was despatched by a messenger to the Clerk of the Crown, thus completing the election.

Some time longer was, however, occupied by the returning officer in verifying the ballot paper accounts, making out his reports to the Clerk of the Crown, and in disposing of the election documents generally as required by rule 37.

(a) There is little doubt of the possibility, with proper organization, of declaring an election within six hours of the close of the poll, irrespective of the numerical strength of the constituency. (See letter of the Town Clerk of Salford in the "Times," of 11th February, 1874.) But it is a question whether in a large constituency it is desirable to proceed with the counting of the votes on the poll-day. It is to be borne in mind that the returning officer and the whole of his staff have been on the stretch from 7.30 a.m. to nearly 5 p.m., without a regular meal, or much later, if even the *papers* are counted immediately on the close of the poll. Now counting certainly requires unremitting attention, and tired men cannot be trusted not to make mistakes. It may, therefore, be wiser, where the votes are numerous, to defer at any rate the counting of the votes till 9 a.m. on the day following the poll day.

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